

**REPORT**

**REPORTS**

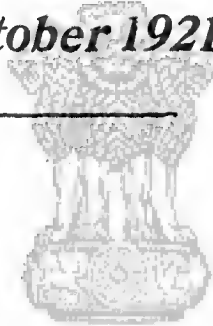
**OF THE**

**CANTONMENT REFORMS COMMITTEE.**

---

*October 1921.*

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**SIMLA :**

**PRINTED AT THE GOVERNMENT MONOTYPE PRESS,**

**1921.**

No. 34672-2 (Q.M.G. 4), dated Delhi, the 29th January 1921.

From—SIR G. B. H. FELL, K.C.I.E., C.S.I., Officiating Secretary to the Government of India, Army Department,

To—The Quartermaster General in India.

I am directed to inform you that the Government of India have decided to appoint a representative committee to enquire into, and make recommendations to this Department in regard to the development of cantonments and their administration on the lines of the Reforms Scheme.

2. The Committee will consist of the following :—

*President.*

The Hon'ble W. C. RENOUF, Esq., C.I.E., I.C.S.

*Members.*

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E.,

*Director of Movements and Quartering.*

Lieutenant-Colonel H. R. NEVILL, O.B.E.,

*Assistant Adjutant-general.*

\*Lieutenant-Colonel J. W. HARLEY LYON, INDIAN ARMY, CANTONMENT  
MAGISTRATES' DEPARTMENT,

*Assistant Quartermaster General.*

The Hon'ble Khan Bahadur EBRAHIM HAROON JAFFER, of Poona,

*Member of the Council of State.*

Khan Bahadur Seth ADAMJI MAMOOJI of Rawalpindi

Principal J. P. COTELINGAM, M.A.,

*Member of the Legislative Assembly.*

Lala NARAIN DASS, B.A., L.L.B.,

*Vakil, Jullundur.*

*Secretary.*

Major J. K. KNOWLES,

*Indian Army, Cantonment Magistrates' Department.*

3. The terms of reference for the consideration of the committee will be as follows :—

“ To consider what changes are necessary in order to introduce into the administration of cantonments the spirit of the Reforms Scheme ; and in particular what amendments of the Cantonments Act and Code and the Cantonments (House Accommodation) Act are desirable.”

No. 34672-3 (Q.M.G.-4).

Copy of the foregoing forwarded for information to :—

The Home Department.

The Legislative Department.

The Adjutant-general in India.

The Honorary Secretary, All-India Cantonments Association, Ambala.

\* Lieutenant Colonel T. G. P. Lawrenson, Cantonment Magistrates' Department replaced Lieutenant-Colonel Harley Lyon on the Committee, on the latter proceeding on combined leave on 21st February 1921.

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## CANTONMENT REFORMS COMMITTEE.

Report of the Committee appointed by the Government of India to examine the question of the introduction of the spirit of the Reforms Scheme into the administration of cantonments.

October 1921.

### CHAPTER I.—INTRODUCTORY.

We, the undersigned members of the Government of India representative

1. Terms of reference [Government of India, Army Department, letter No. 34672-2 (Q.M.G. 4), dated the 29th January 1921].

2. Mr. Craik's Committee proceedings covering a period between the 11th October 1920 to the 14th December 1920.

3. Suggestions of the All India Cantonments Association on the above.

4. The Cantonments (House Accommodation) Act (Act II of 1902).

5. The Cantonments Act (Act XV of 1910).

6. The Cantonment Code, 1912.

7. The Cantonment Manual, 1909.

8. Army Regulations, India, Volume II, Appendix IV.

definite recommendations :—

2. We have taken the proceedings of Mr. Craik's Committee as a ground-work for discussion and have decided to follow the order of those proceedings as far as possible. Our suggestions, for the most part, sufficiently explain themselves, but there are many important points of principle which it is proper that we should emphasise and explain.

3. Our recommendations on the main principles are scattered in Parts I to X of the Proceedings and we have now regrouped them as an appendix to this report. (See Annexure I.)\* The rest of Part I to

Part X merely contain our proposed amendments of the various sections of the laws and regulations relating to cantonment administration. These amendments are summarized in Annexure VI.\*

4. The main principles seem to us to fall under the following heads :—

- (1) The question of separating Bazaar areas from the rest of Cantonment areas, and converting the former into municipalities.
- (2) Introduction of elective representation on Cantonment Committees. Proportion of elected members, franchise, etc.
- (3) Constitution and functions of Cantonment Boards.
- (4) Status and position of the President of the Cantonment Board.
- (5) Status, position and duties of the Cantonment Magistrate.
- (6) The creation and establishment of a Lands Branch under a head Organization at Army Headquarters.
- (7) Appeals from executive orders.
- (8) The consideration of the provisions of sections 215 and 216 of the Cantonment Code regarding expulsion from cantonment limits with a view to either repeal or making such modifications as may be necessary.
- (9) Such alterations in the existing Cantonments (House Accommodation) Act as will secure to military officers the object intended by its enactment, and that will define the position and rights of tenancy of private house-owners in cantonments while safeguarding their legitimate

interests, also general directions required for the guidance of Standing Committees of Arbitration in assessing rentals of houses in cantonments, and provision for adequate representation of all interests on Arbitration Boards.

- (10) Such alterations in the Cantonments Act and Code as will best meet the changed conditions of administration and the desirability or otherwise of amalgamating the Code with the Act.
- (11) The legality or otherwise of extending the application of cantonment law by executive directions.

5. Prior to consideration of these principles, the Committee were faced with the fact that the introduction of the four Commands scheme had rendered obsolete the powers previously vested in the General Officers Commanding, Brigades and Divisions.

Although no actual principle was involved, the Committee considered it incumbent on them to make recommendations for the necessary chain of responsibility in conformity with the new military organization. Two alternative proposals were referred to, namely —

- (1) the delegation of legal powers at present conferred on Officers Commanding, Brigades and Divisions to Officers Commanding Brigade Areas and Districts under the new organization scheme.
- (2) decentralization of cantonment administration in Command Headquarters where senior officers of the Cantonment Magistrates' Department would be advisers to General Officers Commanding-in-Chief of Commands.

The latter was a proposal put forward by Mr. Craik's Committee but we unanimously consider that, as stated above, it is essential to maintain the normal chain of military authority throughout.

Changes in the designation of the Officers Commanding Brigades and General Officers Commanding Divisions.

Changes in the designation of the Cantonment Committee.

6. A further alteration in designation was also considered by the Committee. It was pointed out that the radical alterations, which the Committee had to consider in cantonment administration, rendered it advisable that the name "Cantonment Committee" associated for many years past with semi-autocratic administration of cantonments, should now give place to a new term. The Committee, therefore, recommended that on the analogy of municipal terminology, the term "Cantonment Board" should replace the designation "Cantonment Committee." Similarly, the term "Secretary, Cantonment Committee," should become "Secretary, Cantonment Board." These new designations are adopted hereafter in the Report.

Separation of Sadar Bazaar Area from the rest of the Cantonment area.

7. Turning now to the various principles enumerated in paragraph 4 and taking them in the order in which they were considered in the proceedings of the Committee, the first principle discussed was that of "Separation of Sadar Bazaar area from the remainder of the Cantonment area." The discussion on this subject centred round two salient points, *viz.*—

- (a) The justice of applying revenue raised from Sadar Bazaar areas to areas outside their boundaries for military requirements.
- (b) The necessity of preserving within the cantonment such areas as were necessary for the health, welfare and discipline of the troops located in the cantonment.

With regard to (a), in connection with taxation levied from Sadar Bazaars being expended on the needs of the area outside the Sadar Bazaar, the President pointed out that a portion of the incidence of taxation fell ultimately upon persons living outside the Sadar Bazaar. This view was accepted by the Committee with the exception of the Hon'ble Khan Bahadur Haroon Jaffer and Lala Narain Dass as stated in their joint note of dissent. It is, however, a fact that the conservancy of Indian troops is at present debited to Cantonment Funds, the sum involved amounting to about 25 per cent. of the expenditure from the Cantonment Fund. In this connection, it was stated that it has been recognized for some years by Army Headquarters that this is an unfair charge on the Cantonment Fund and Army Headquarters are only awaiting a favourable financial opportunity for removing this grievance.

In the preliminary discussion the non-official members pressed for total exclusion of Sadar Bazaars from the rest of the Cantonment area. The official members, on the other hand, regarded as essential the retention of official control over such Sadar Bazaars as were dependent on the cantonment for their existence and were largely frequented by troops. Two alternative proposals were considered by us, namely,—

- “(1) Excision of the area not wanted for actual military requirements in cases where the Sadar Bazaar is contiguous to, but not surrounded by, military areas. Part I of our proceedings.
- (2) In cases where the bazaar is surrounded by military areas and where the incidence of taxation and its application to general cantonment purposes constitutes a real grievance, the non-military area might be administered by a separate local body with a proportion of elected members, to be discussed hereafter, and under the present cantonment laws with such amendments as may be suitable.”

Ultimately, agreement was reached by the Committee as a whole that only in comparatively few cantonments separation, as outlined in alternative (1), prove possible. In these cases complete excision should be given effect. As regards alternative (2), we are unanimous that where excision, as outlined in (1), is not feasible, then the whole area should be administered by one body, namely, the Cantonment Board. Part III of our proceedings.

The Committee, with two dissentients, the Hon'ble Khan Bahadur Haroon Jaffer and Lala Narain Dass, do not feel in a position to lay down specifically in what cantonments excision would be feasible.

8. The second principle considered by the Committee was that of the introduction of elected representation on Cantonment Boards. This principle is intimately connected with the first clause in the terms of reference and the principles of the Reforms Scheme. Introduction of elective representation.

We unanimously recommend the advisability of the introduction of elective representation.

Further discussion centred on the proportion of the elected element and the franchise whereby it was to be elected.

The salient points of the discussion were :—

- (a) The recognition of the principle that cantonments primarily existed for troops.
- (b) The recognition of the principle that taxation carried with it the right of adequate representation.
- (c) The recognition of the fact that the health, welfare and discipline of the troops must always be the first consideration before any comprehensive system of cantonment administration could be entertained.
- (d) The recognition of the fact that many cantonments are not self-supporting but are State-aided by grants from Government in the Army Department.
- (e) The recognition of the fact that residents in cantonments must inevitably be subjected to greater restrictions than the ordinary citizens living in municipalities, owing to the necessity in cantonments for maintaining a higher standard of efficiency and sanitation.
- (f) The recognition of the fact that the Montagu-Chelmsford Scheme of Reforms provides an overwhelming majority of elected members in local bodies of similar character.
- (g) The recognition of the fact that the non-official members can be fully relied upon for acting with a sense of responsibility in maintaining the desired standard of efficiency and discipline.

The Committee, ultimately, with the exception of one dissentient referred to hereafter, recommend that for cantonments which were self-supporting, 50 per cent. of the members existing should be “elected members,” exclusive of the President

who, for the present, must be an official. A similar proportion of elected members should be comprised in the Cantonment Board in the case of State-aided cantonments where the grant-in-aid does not exceed 20 per cent. of the total revenue. In cantonments where the grant-in-aid exceeds 20 per cent. of the total income, the number of elected members may be reduced below 50 per cent.

The single dissentient to this recommendation was the Hon'ble Khan Bahadur Haroon Jaffer, who desired that there should be an elected majority on the Cantonment Board comprising not less than two-thirds of its members. It was, he considered, by this means only that the spirit of the Reforms could be adequately met as required in the terms of reference.

The Committee unanimously agreed that it should be left to the decision of Local Governments to decide the total number of members on each Cantonment Board. The number should not ordinarily be less than nine including the President in cases where it is necessary to provide adequate elective representation.

With regard to the question of franchise, we are unanimous in our opinion that it should follow the analogy of neighbouring Municipalities. The question of the representation of important interests should be left for determination by Local Governments concerned.

Constitution and  
functions of Can-  
tonment Board.

9. We next come to the consideration of the constitution of the Cantonment Board.

Following our recommendations in the previous paragraph, we arrive at the conclusion that the Board will, in future, consist partly of nominated (or official) members, and partly of elected members in the proportion of half and half, exclusive of the President, whom we recommend should be an official.

We have already left to Local Governments the discretion to decide the total number of members of each Cantonment Board with the reservation that where adequate elective representation is necessary, the total number of members should not be less than nine.

The present statutory rules in section 3 (1) of the Cantonment Code provide for certain permanent members. These members we do not desire to alter.

We recommend, therefore, that the size of the Board be increased by 50 per cent. elected members.

We thus evolve a Cantonment Board consisting of the following members based on existing statutory provision :—

- (a) The President who would be the officer appointed under sub-section 3 (1), clause (a).
- (b) The District Magistrate, or in his absence, a magistrate of the first class appointed by the District Magistrate to represent him.
- (c) The Cantonment Lands Officer, or the officer carrying out the corresponding duties. (The scheme for the formation of a Lands Branch under consideration at Army Headquarters was outlined by General Charteris.)
- (d) The Health Officer.
- (e) The Executive Engineer as defined in the Cantonment Code.
- (f) The Superintendent of Police, or in his absence, the Deputy Superintendent of Police, where such an officer is deemed necessary.
- (g) The Senior Medical Officer in executive military employ on duty in the cantonment.
- (h) The Medical Officer in charge of the Cantonment General Hospital or dispensary, if he is a commissioned officer.
- (i) Such Commanding Officers of units or depots residing in the cantonments as may be appointed by competent military authority.

- (j) Any residents in cantonments, whether officials or non-officials, if the competent military authority thinks it necessary to represent interests not otherwise represented.
- (k) Fifty per cent. elected members, exclusive of the President, in self-supporting cantonments and in State-aided cantonments where the Government grant-in-aid does not exceed 20 per cent. of the total income. In State-aided cantonments where the grant exceeds 20 per cent. of the total revenue, the number of elected members may be reduced.

Generally speaking, in every self-supporting cantonment there would thus be, exclusive of the President, 7 permanent members, possibly 2 members appointed as Commanding Officers under (i) and probably one member appointed under (j), making 10 members in all. In addition to these there would also be 10 elected members, so that the Board would ordinarily consist of 20 members in large cantonments, the President making 21.

Section 3 (2) provides that the Cantonment Magistrate should be the Secretary as well as a member of the Cantonment Board. Consequently, we think that, normally, the Secretary should be a Government official who, in the event of the Lands Branch being initiated, might be the Cantonment Lands Officer or some other officer of corresponding position in smaller cantonments; but where the finances of the cantonment admit of the appointment of a whole-time paid Secretary with adequate salary, we see no objection to this being done.

As regards the functions of the Board, we recommend that, with the Cantonment Authority altered as stated above, there should be no diminution in the powers of the Cantonment Board. In order to do away with the existing anomaly whereby the duties of prosecutor and judge are, in certain cases, vested in one individual, namely, the Cantonment Magistrate, we recommend that the present judicial functions of the Cantonment Magistrate should be exercised by a separate judicial officer of the civil department and not any member or servant of the Cantonment Board.

10. Intimately connected with the constitution of the Cantonment Board are the questions of the position of the President and of the Cantonment Magistrate who is by statute the Secretary of the Board. Position of the President, Cantonment Board.

It is noted that the All India Cantonments Association desire that the President should be an elected member, but that if he was an official, then there should be a Vice-President who should always be an elected member.

We, however, are unanimous in recommending the retention of the existing provision of the law that the President should be an official appointed under section 3 (1), clause (a), Cantonment Code, 1912.

As regards the creation of a Vice-President, the Committee agreed that such an appointment was desirable and recommended that there should be a Vice-President elected by the Board. The Hon'ble Khan Bahadur Haroon Jaffer recommended that the Vice-President should be an elected member of the Board.

11. With regard to the position, status and duties of the Cantonment Magistrate, we find ourselves unanimous in the recommendation that judicial functions should be separated from executive functions. This was recognized to be one of the main requirements towards the attainment of reform in cantonments. Position and functions of the Cantonment Magistrate.

We consider that not only is this desirable but it is also remedying an existing defect, namely, the Cantonment Magistrate at present has so much judicial work to do that he is unable to devote sufficient time to his executive functions.

In consequence cantonment administration has suffered and notably the administration of Government land within cantonments. It has been brought to our notice that in very few cantonments there existed an accurate record of rights, or register of leases, or valuation of Government property.

We recommend, therefore, that the judicial functions should no longer be vested in the Cantonment Magistrate and that he should devote his whole energies to the

executive administration of the cantonment and of Government property. We refer to this in further detail in the following paragraphs :—

He should also be “ Secretary of the Cantonment Board ” except where the Cantonment Fund can afford to pay a whole-time paid Secretary. The entire judicial work should be handed over to a magistrate of the Civil Department.

We understand that the officer who, under departmental proposals for the Lands Branch, will be the Cantonment Lands Officer, will be charged with the responsibility of administering lands in the cantonment and protecting Government’s rights under a head Organization at Simla on the lines of the War Office Land Management Bureau.

Safeguarding of  
Cantonment Ma-  
gistrates’ Depart-  
ment.

The present Committee endorse the view of Mr. Craik’s Committee (Part X, page 24) that the position and prospects of the present officers of the Cantonment Magistrates’ Department must be safeguarded in the new organization, either by appointment in the new Lands Branch, or by adequate financial compensation.

Creation of a  
Lands Branch.

12. It has been brought to our notice by the official members that the administration of valuable lands belonging to, in most cases, the Government of India in the Military Department has been in the past seriously neglected, and that military property and interests have suffered from defective guardianship, and that the result of this has been that land has been exploited by individuals and by classes for whom it was never originally intended, and Government title to their own land has gradually become more and more obscured.

The Committee recommend that steps should be taken at a very early date to prepare a record of rights in all cantonments and to frame rules for the registration of immoveable property.

We are informed that there is a proposal to establish in India a Lands Branch which would be responsible to Government for the control of all State lands in cantonments, and within which the present highly skilled officers of the Cantonment Magistrates’ Department should be incorporated. As we have not had the details of this proposal, we are unable to give any recommendations as regards the desirability or otherwise of this proposal. It is, however, essential that there should be statutory power enforcing registration on the same lines as those in force in the Punjab for mutations which provides for suitable penalties.

Appeals from ex-  
ecutive orders.

13. (i) As regards appeal and revision from executive orders, the Committee have unanimously accepted the general principle expressed in Mr. Craik’s Committee that an order passed by a subordinate authority should be appealable to the next higher military authority.

(ii) In connection with appeals against an order passed under section 216 of the Cantonment Code, *i.e.*, expulsion of persons from cantonment limits, it was unanimously agreed that, if the General Officer Commanding the District was himself the authority who passed the original order of expulsion, there should be an appeal to the General Officer Commanding-in-Chief of the Command ; and that in the case of the latter officer being the authority who passed the original order of expulsion, an appeal should lie to the Governor-General in Council, but the non-official members advocate the alternative of a judicial enquiry by the District Magistrate and recommend that an appeal against his decision should lie to the Sessions Judge as in a criminal case.

Part IX.

The substitution of “ Governor-General in Council ” for the “ Commander-in-Chief ” has been recommended by us because it was considered that it would be more acceptable to the civil and non-official residents of cantonments if the final decision in all such cases rested with the highest civil authority in India.

(iii) With regard to appeals by dismissed servants of the Cantonment Board, there was divided opinion. The official members endorsed the views of Mr. Craik’s Committee recommending shorter procedure and a limitation to the number of appellate authorities, namely, that the General Officer Commanding the District should be the final authority in such cases to decide appeals. Their reasons for advocating this are that the present practice of, firstly, instituting lengthy proceedings before a Cantonment Magistrate (or the Secretary of the Cantonment Board as now proposed) can dismiss a servant, and, secondly, of having a whole



chain of authorities to whom a dismissed servant can appeal, only tends to impair efficient administration.

The non-official members desired the retention of the existing statutory right, under section 248 (1), of appeal to the Governor-General in Council by dismissed servants drawing Rs. 100 or more.

After subsequent discussion, the non-official members accepted the limitation of appeal to the General Officer Commanding the District with the provisos that:—

(a) if the President of that Board should happen to be acting as the General Officer Commanding the District himself, then an appeal by a dismissed servant should lie to the General Officer Commanding-in-Chief of the Command, and

(b) if the dismissed servant was drawing a salary of Rs. 100 or more, an appeal should lie to the next higher military authority. A servant dismissed by the Secretary of the Cantonment Board has, in the first instance, a right of appeal to the Cantonment Board as is the case now.

(iv) The Committee unanimously recommend that an appeal against an order passed under sections 85, 99 (1) and 181(1) of the Cantonment Code should lie to the General Officer Commanding the District.

(v) As regards appeals against an order passed under any of the following sections, the official members recommended the retention of existing provision as laid down in Schedule V of the Code.

Sections 92 (1), and (2), 95, 96, 97 and 215 (3); Cantonment Code :

The non-official members advocated that the District Magistrate should be the authority to decide appeals under these sections.

(vi) The principle of allowing an appellant the right to appear by counsel was next discussed. It was advanced by the non-official members that on the analogy of municipal administration, the person affected should have a right in all cases, excepting in the case of an appeal by a dismissed servant of the Board, of appearing by counsel.

The official members considered that this proposal, though a reasonable one, was of doubtful practicability. General Officers Commanding could not be expected to devote sufficient time to hearing and disposing of appeals through counsel. An alternative was to appoint a different channel of appeal. No agreement was reached.

14. The question of the retention of the existing power of expelling persons from cantonment limits under the provisions of sections 215 and 216 of the Cantonment Code evoked considerable discussion, as will be seen in Part VII, and again in the latter portion of Part X of our Proceedings.

Expulsion of persons under sections 215 and 216 of the Cantonment Code.

The chief points of discussion centred round the following:—

- (1) The principle that cantonments primarily existed for the residence of troops.
- (2) The necessity for maintaining good order and military discipline in all cantonments where troops were quartered.
- (3) The protection of the rights and liberty of every citizen of the cantonment, and the protection of the innocent, where the use of so arbitrary a power was considered absolutely necessary.
- (4) The consideration of the fact that the power had been, in a few cases, abused.
- (5) The argument that the ordinary laws of the land are sufficient for all purposes.

Ultimately, while we agreed (with one dissentient, the Hon'ble Khan Bahadur Haroon Jaffer) that the retention of the statutory power of expulsion in

sections 215 and 216 was necessary whenever the discipline and loyalty of the troops is affected, we recommend the following modifications as regards section 216 in such cases only as it is applied to cantonment areas other than regimental lines and bazaars, namely,—

Modification in procedure in section 216.

- (a) Before an order of expulsion is passed, the authority which issued the order should give the persons affected a full opportunity of showing cause against it.
- (b) If after hearing the accused person and considering his explanation, the Officer Commanding is of opinion that the accused should be expelled, he shall pass an order in writing expelling the person with his reasons therefor.
- (c) The person so expelled should have the right to ask the District Magistrate to hold an independent judicial enquiry into his case. At these enquiries the person affected shall be given a copy of the reasons for the order and he should be allowed to produce evidence and to appear by counsel.
- (d) The District Magistrate should then enquire into the case and submit his proceedings with his recommendations thereon to the General Officer Commanding-in-Chief of the Command for final orders.

As regards the question whether the expulsion order issued in (b) as above should take effect pending the result of the independent enquiry by the District Magistrate mentioned in (c) above, we were unable to attain agreement.

The official members consider that the expulsion order should take effect pending the judicial enquiry. The non-official members, on the other hand, unanimously urge that the expulsion order should not take effect until the judicial enquiry is completed.

The non-official members, however, though accepting these modifications as a step towards their ultimate aim, submitted an alternative proposal limiting expulsion to certain specified cases and offences and requiring that complete inquiry by a District Magistrate should precede expulsion. The specified cases include tampering with the loyalty of troops by actual contact. In making the proposal, they advanced the following points for consideration :—

- (a) That no contingency, other than that of tampering with the loyalty of troops, could be conceived of, to justify the extreme step of depriving a person of his liberty and of expelling him from his home.
- (b) That in case of other serious offences, the ordinary law provided the immediate arrest of the offender upon a warrant.
- (c) That the establishment of the innocence of a person expelled, subsequent to his expulsion, did not compensate him for the moral, social and material loss he had to suffer during the period of expulsion.
- (d) That the universally accepted principle of every civilized Government in such cases was to punish a man after his guilt was proved in a fair trial and not before it.
- (e) That a power of such an arbitrary character should be allowed to be exercised only in clearly specified cases and should not be left to the discretion of an individual, if its 'abuse' was to be effectively guarded against. The Hon'ble Khan Bahadur Haroon Jaffer pressed for the deletion of both sections 215 and 216 of the Cantonment Code.

The official members are unable to accept the alternative proposal because :—

- (a) No schedule of cases and offences can be sufficiently comprehensive to meet all eventualities, and,
- (b) the power of expulsion to be effective must be exercised without the delay involved in a prolonged enquiry.

They, nevertheless, concur with the underlying principle of the non-official members that expulsion should be limited to offences only affecting the loyalty and discipline of troops, provided some legal definition can be formulated to cover such

limitation without its leaving loopholes for evasion which might be dangerous to the State.

We have considered the following two alternative definitions of the offence to which expulsion may be restricted :—

- (1) tampering with the loyalty and discipline of troops, or
- (2) tampering with the loyalty of troops or committing any act contravening, or abetting the contravention of the Indian Articles of War so far as it relates to the discipline of troops.

Acts committed under (2) would necessarily apply, not only to soldiers or persons subject to such Articles of War, but also to civilian residents of the cantonment.

Having thus made our intention clear as to the principle of restriction, we feel that we must leave the actual wording of the definition to the Legal Advisers to the Government of India. The Hon'ble Khan Bahadur Haroon Jaffer pressed for the deletion of sections 215 and 216 as being unnecessary and open to grave abuse.

15. (i) We next come to the important consideration of revising the cantonment laws and regulations so as to bring them into conformity with the principles enunciated above and with our recommendations. List of present laws in force.

The present laws relating to cantonment administration consist of, in main,—

- (1) The Cantonments (House Accommodation) Act (Act II of 1902).
- (2) The Cantonments Act (Act XV of 1910).
- (3) The Cantonment Code, 1912.

In addition to these there are many applied enactments, of which we have nothing of importance to mention, and we have accordingly left them out of the scope of our examination.

16. At the outset we found that certain executive directions from Army Headquarters which involved the extended application of existing law have been issued to Cantonment Authorities. This is not, in our opinion, legal procedure. We consider that no direction either expressed or written involving the extended application of existing law should issue from Army Headquarters or any other military authority in the form of orders, but that when, necessary, the rule should be amended as provided for in the Cantonments Act. The Cantonment Manual, 1909. Irregularity of executive directions.

## CHAPTER II.—THE CANTONMENTS (HOUSE ACCOMMODATION) ACT, 1902.

17. We propose first to take the House Accommodation Act and to deal with the Cantonments Act and Cantonment Code in subsequent paragraphs.— House Accommodation Act.

First and foremost we consider that the House Accommodation Act is defective in that it does not provide for the chief object intended in the preamble of the Act, namely, that houses built on Government military land should be made available, when required, for the accommodation of military officers.

Cases were pointed out to us by the official members from several cantonments in which considerable difficulty has been experienced in securing house accommodation for military officers owing to houses having been taken up by commercial firms and associations, and in which the Act is resulting in grave restriction in the accommodation available for military purposes, so that it seems to us apparent that in very many cantonments Government are being rapidly elbowed out of their own area. Part I of Mr. Craik's Committee Proceedings, paragraph 8.

We, without inquiring into the truth or otherwise of these cases, unanimously recommend that the House Accommodation Act should be so revised and amended as to prevent any encroachment on the rights of military occupancy and thus secure to military officers the main aim and object of the enactment.

We have examined the Act and framed our recommendations therefor, with the following objects :—

- (a) to make the Act a more efficient instrument for providing accommodation for military officers,

(b) to meet, where it was possible to do so, the grievances of the All India Cantonments Association,

(c) to safeguard the legitimate interests of house-owners of cantonments.

Prior, however, to proceeding with a brief account of the changes desired in the Act, we find that Local Governments have been, in the past, somewhat reluctant to apply the House Accommodation Act to certain cantonments, in part or in whole, when requested to do so, with the result that the primary object of a cantonment as a military reservation is in danger of being overlooked. The remedy appears to us to be, not in making the House Accommodation Act of universal application, but in the issue by the Government of India of directions to all Local Governments pointing out the difficulties of securing house accommodation for military officers and considering all applications for the extension of the Act in the light of these difficulties.

It seems to us that our labours and proposals to amend the Act are of little utility if the Act itself is not applied by Local Governments to cantonments where these difficulties are experienced.

House Accommodation Act to be the only legislation dealing with house property.

18. At the preliminary examination of the Act it was brought prominently to our notice that, besides the House Accommodation Act, there were other regulations dealing with house property in cantonments, namely, Army Regulations, India, Volume II, Appendix IV. The Army Regulations, we hold, are only directions and orders of the Commander-in-Chief which have no force of law. There seems to be, we think, considerable ground in the representation of the All India Cantonments Association that Army Regulations cannot be legally applied to house-owners in cantonments in the case of the veto of sale or transfer of house property, nor, we think, can they apply to other matters pertaining to immoveable property.

Part III of our Proceedings.

We recommend, therefore, that all references to sites and buildings should be deleted entirely from Army Regulations and, such as are necessary, should be embodied in the House Accommodation Act. Though, it is in all probability, correct to presume that rules relating to sites granted under Army Regulations, India, have still force as regards houses which were subject to them originally, we are of opinion that those rules would be better embodied in an appendix to the Act and thus made a legal instrument. It is, therefore, our unanimous recommendation that the House Accommodation Act should be made the only legislation relating to house property in cantonments.

Inequity of Cantonment Authority to exercise functions under the House Accommodation Act

19. Throughout our proposals in this Act we have omitted all references to the "Cantonment Authority" as we consider it inequitable as well as irregular for that authority to exercise any functions for the following reasons:—

- (a) Because the Act deals with matters entirely outside that Authority's province.
- (b) As the Cantonment Authority provided the agency for assessing the rentals of houses, it should not be also the machinery for requisitioning houses.

We have, therefore, come to the conclusion that the proper authority under the Act should be the Officer Commanding the Area and we have accordingly recommended that the terms "Officer Commanding the Area" should replace the term "Cantonment Authority" wherever the latter occurs.

Requisitioning houses for military officers.

20. Even if the above recommendations are given effect, there remains the difficulty that landlords will suffer unjustly if they are required to let their houses on short-term leases to individual officers and to receive no rent when the exigencies of the service cause their houses to be unoccupied by military tenants. To meet this we are unanimously agreed that the only method which could be adopted, without injustice to landlords, is for Government to either,

- (a) requisition private houses for military occupation on long repairing leases,—see new section 6,—or
- (b) to purchase the required number of houses from present owners should they desire to sell.

It was recognized by the Committee that the method proposed in (a) would manifestly be costly to Government as Government would be responsible for the repairs, and if the houses remained unoccupied, the loss of rent would fall on Government.

This proposal would, however, we are confident, ameliorate to a great extent one of the chief grievances of the house-owner community in cantonments who are liable, under present conditions, to suffer loss in rent on account of their houses remaining unoccupied by the application of legal restrictions made for the benefit of the military.

The right to purchase is already inherent in the power which Government can exercise. As regards long leases we consider that houses required for military purposes should be leased by Government for a term of not less than five years in lieu of the present system under which the individual officer becomes the tenant.

It will be noticed that our recommendations are precisely similar to those of the Army in India Committee of 1919-20, Part V, section I, paragraph 10.

21. It has been brought to our notice that under existing conditions of tenure the house-owners often suffer from the neglect by their tenants of their gardens and valuable fruit trees on the property. The military tenant either refuses to pay any attention to their upkeep, or being only a temporary resident in the station, he feels disinclined to incur any expenditure on a garden which is not going to give him any beneficial results. We consider this to be a legitimate grievance. Suitable protection for upkeep of gardens and fruit trees.

If Government requisitions the house and becomes the tenant, we therefore unanimously recommend that in the lease there should be specified certain conditions providing that Government should maintain in a satisfactory manner the garden and fruit trees, or, alternatively, that Government should compensate the owners for any loss incurred by them.

22. We recommended that the exemptions from the operation of compulsory requisition should include those at present exempted under section 11 (a) of the Act and that in addition "civil office" should be exempted. This would include houses already occupied as offices and such houses as are occupied in future solely as offices. Then the exemptions will be, namely, "a hospital, bank, hostel, shop, civil office, or school." We have especially included "civil office" in this section as in many cantonments there are buildings, such as kutcheries, offices, treasuries, all belonging to the Local Government in the Public Works Department for the civil authorities of the station which should not, in our opinion, be touched. Not only is, in the majority of such cases, the accommodation unsuitable for residential purposes, but also, it would be obviously inexpedient to include these buildings in the category of houses liable to appropriation for military officers. Houses occupied as offices or required for future offices.

23. The question of removing the present statutory right under section 11 (c) of the House Accommodation Act under which an owner cannot be disturbed when residing in his own house, or houses, was discussed at length in Parts III and IV of our Proceedings. Protection to owners under section 11 (c).

It was pointed out that there was a strong tendency among house-owners and others to purchase bungalows in cantonments with the object of settling in them under the secure protection afforded by the provisions of section 11 (c) and that this was resulting in grave restriction in the accommodation available for military officers.

The official members considered this to be a grave matter and at first recommended the complete amendment of section 11 (c) to provide that owners living in their own house, or houses, could be made liable to vacate for a military officer.

Mr. Craik's Committee also held this opinion, but with this difference; that, whereas, Mr. Craik's Committee recommended that the change should affect those owners only who purchased houses subsequent to the date of the new amendment, the official members consider that the new amendment should apply to all, including those owners who are already enjoying the protection afforded under section 11 (c) of the Act.

The non-official members, while admitting that the exemption of owners residing in their own houses must impose restrictions in the accommodation available

for military occupancy, urged the inherent right of the owner to his own house—a right recognized in civil law. Further they pointed out that as houses had been either erected or purchased with the present exemption from disturbance by the owner, if living in it, vested interests would be affected by any alteration in the present law. Ultimately agreement was reached by the Committee, with one dissentient, to the following recommendations:—

Part IV of our Proceedings.

“That the existing rights of the present owners should not be disturbed, but when a house changes hands either by sale, or by transfer, or by gift, the new owner should no longer have the privilege of exemption from being turned out of his house and that the previous owner should be compensated by Government for any loss in the estimated capital value of the house at the time of sale which may result from the imposition of the restriction in the new conditions of tenure.”

“In the event of the death of any of the present owners their successors in interest should be allowed to retain the right of living in the house without any interruption by Government. If, however, the deceased person owned more than one house, his successors would be permitted to claim uninterrupted occupation in respect of only one of such houses.”

The Hon'ble Khan Bahadur Haroon Jaffer did not agree and has expressed his personal views on this point in his note of dissent.

Part IV of our Proceedings.

If our amended proposals are accepted by Government, we consider it very important that steps should be taken forthwith to obtain authentic lists from all cantonments of—

- (a) those houses which are at present subject to the right of requisition by Government under section 6 of the Act or otherwise, and
- (b) those houses which are occupied by owners and protected under the provisions of section 11 (c) of the Act from being appropriated, and
- (c) those houses liable to alienation by owners with the aforesaid protection.

Repairs executed by Military Works Services at owners' cost.

24. We next examined the provisions of section 22 of the House Accommodation Act with a view to arriving at a simpler and a quicker method for getting repairs done to a house occupied by a military tenant where the owner fails to comply with a notice issued under section 19. The present machinery is, we think, cumbersome and causes much inconvenience to the tenant who may or may not be in a position to pay down a lump sum of money, which might in cases amount to several hundreds of rupees, to the Military Works Services before any repairs can be executed.

The method suggested by Mr. Craik's Committee is that the work should be carried out by the Military Works Services or Public Works Department, as the case may be, at their own cost, and the money recovered from the tenant by deduction of such proportion from the rent as may be decided by a Standing Committee of Arbitration.

With these recommendations we are unable to concur as we foresee many difficulties in recovering the money in the manner proposed.

We unanimously are of opinion that the best solution to the question would be for Government to advance the amount necessary for repairs to the Military Works Services, or the Public Works Department, so that repairs could be executed at once, and recover the money from the owner by attachment of the rent, provided that such recovery should not exceed one half of the monthly rent per month. Government should be entitled, under these circumstances, to charge interest on the loan at the rate of Rs. 6¼ per cent. per annum.

\* Not printed with this Report.

We have, accordingly, made the necessary amendments to this section in our proposed draft in Annexure VI.\* It should, however, be noted that these new amendments do not apply to houses requisitioned under the new section 6 under which Government undertakes to repair the house by the conditions of the lease.]

Power of military tenant to require reference to arbitration.

25. The existing provisions of sections 19, 20 and 21 of the House Accommodation Act seem to favour the military tenants, as compared to the owner, in giving the tenant a wider scope of reference to Arbitration Committees on matters pertaining to repairs to houses and to reduction in rent.



We consider that in any case of a dispute of the nature contemplated in the above sections, the owner of the house should have equal consideration with the tenant. He should be given, in our opinion, the option of adopting one of the following measures :—

(a) The right to demand a reference to the Standing Committee of Arbitration.

(b) The right to demand that Government should take his house on a repairing lease for not less than five years ; or purchase it at a valuation to be determined by the Standing Committee of Arbitration ;

(c) The right to demand that the military tenant should vacate his house ; and we think that it should be made compulsory for Government to comply with one of these three demands. We have, accordingly, amended the law to provide for this by the addition of a new sub-section 21 (c).

26. On examining Chapter IV, which deals with Committees of Arbitration, we find that the machinery provided for assessing the rentals and valuation of houses and arbitrating on repairs is both complicated and defective ; and we consider that the whole of the chapter should be revised. Our recommendations in Part IV of our proceedings embrace in general the following main points :—

(a) The alteration of the term “ Committees of Arbitration ” to “ Standing Committees of Arbitration ”. Our intention here is to provide that in every Cantonment there should be a permanent Arbitration Committee appointed instead of leaving it to the Officer Commanding to appoint and convene one as occasion requires.

(b) The introduction of elective representation into Arbitration Committees.

(c) The delegation to Arbitration Committees of a wider scope of examination into, and settlement of, all matters pertaining to house rents, repairs, amount of purchase money, etc.

(d) The fixing of a minimum number of members which shall form a quorum.

(e) The limitation of the arbitrary power of decisions of Arbitration Committees.

(f) The right of any party dissatisfied with the decision of the Committee, with respect to certain specified matters, to appeal to a civil law court within a fixed time.

We have simplified the procedure and allowed for the eventuality in the case in which the proceedings of an Arbitration Committee are being deliberately delayed owing to the failure or neglect of one or more members to attend. Provision has also been made giving the right to any member of an Arbitration Committee to dissent if he feels dissatisfied with any award and to have his dissent attached to the proceedings at his request.

With reference to (b) we have recommended that the Arbitration Committee should ordinarily consist of :—

(a) a Chairman, who shall be the District Magistrate or if the District Magistrate is unable to act on the Committee some magistrate, being a Justice of the Peace or magistrate of the first class, and not being the magistrate exercising judicial functions in the cantonment, appointed by the District Magistrate to act in his stead ;

(b) Two members appointed by the Officer Commanding the Area. One of these members should, whenever possible, be an engineer officer.

(c) Two members chosen by all the elected members of the Cantonment Board. These members need not necessarily be members of the Cantonment Board. One of them should be a house owner in the cantonment.

This will allow of a bare official majority. We have emphasized the fact that we think that one of the nominated members ought to be an engineer, and one of

the arbitrators elected by the Board shall be a house owner in the cantonment. The one will be required for his technical advice, and the other will represent the interests of house owners in general.

With regard to (c), (e) and (f) the Committee have been given a much more compact list of matters to be decided by it instead of the vague directions which the present Act gives, namely, a Standing Committee of Arbitration should be appointed triennially and it shall decide,

- (a) in any case in which a house is requisitioned under section 6, the amount of annual rental payable to the owner. The rent so fixed shall be revised by the Standing Committee at the expiration of each period of five years from the commencement of the lease ;
- (b) in every case in which a house is sold under the provisions of section 14 (2) the amount of the purchase money ;
- (c) on reference being made to it under section 19 (2), whether any repairs demanded by a tenant are or are not necessary and within what period such repairs are to be executed ;
- (d) on reference being made to it under section 20 read with section 16 (1) (a), whether a house has or has not become unfit for occupation ;
- (e) on reference being made to it under section 21, the amount of rent payable by the tenant to the owner,
- (f) in the event of any repairs to a house being executed by the Military Works Services, or Public Works Department, as provided in section 22, by what amount the rent payable by the tenant to the owner shall be reduced and for what period.

In matters of dispute between landlord and tenant, we recommend that the decision of the Standing Arbitration Committee shall be final in all matters of dispute, except :—

- (a) settlement of house rents either in the case of a house being requisitioned by Government, or in the case of a house being rented by a tenant direct from the owner, or
- (b) settlement of the amount of purchase money in every case in which the house is sold to Government.

In these two cases as the rights and interests of house owners in cantonments are gravely affected and in order, therefore, to give house owners every opportunity of seeking redress of what may appear to them an unfair award we unanimously recommend that they should have a right of appeal to a civil law court. This, no doubt, introduces a new principle but it seems to us only fair and just that house owners should be granted a protection of this nature.

Assessment of  
rentals of houses.

27. We next considered the question of assessing rents of houses. There was a feeling among the non-official members that, unless definite principles were laid down for observance by Standing Committees of Arbitration when determining the amount of annual rental, important factors might be left out of consideration, and the award might not be, in consequence, a just decision.

This might be more than likely in the case of a house requisitioned by Government on a five years' repairing lease where the lessee (*i.e.*, Government) would have a direct interest in the matter.

Taking these points into our consideration we agreed that it was desirable to lay down definite principles which would guide Arbitration Committees in arriving at a reasonable and fair award.

With the exception of three dissentients referred to below, the majority of the Committee accepted the following principles on which rentals should be assessed ;

Part V of our  
proceedings.

- (a) A house owner should receive, as a minimum, a fair return on the initial expenditure on his building. The minimum rent so fixed should not be less than the rent registered in the office of the Cantonment Authority.



- (b) To this minimum should be added a proportion to represent the increase in the value of house property. The increase in this case should be based on the annual value of the buildings standing on the site, apart from the actual land which is, in almost all cases, the property of Government.
- (c) An allowance for repairs which should be based upon the increased cost of labour obtaining at the time as opposed to the cost of labour at the time the house was built.

The Hon'ble Khan Bahadur Haroon Jaffer and Lala Narain Dass, agreed with the views of the All-India Cantonments Association (filed as Annexure III) that the valuation of the houses should approximate in value with those situated in the civil station and that the rents should be increased by at least 100 per cent. in view of the increased cost of labour and materials. Khan Bahadur Seth Adamji Mamooji suggested an increase of 50 per cent.

The Hon'ble Khan Bahadur Haroon Jaffer subsequently proposed that 10 per cent. of the present market value of houses in cantonments should be taken as a basis in determining rents. While the remainder of the Committee cannot agree to an all round increase of this drastic nature without any preliminary investigation of the facts, we, nevertheless, recognize that the revision of rentals in cantonments is a matter of urgency as the present rents do not represent the present fair market value of the houses.

We, therefore, unanimously recommend that wherever the registered rents of houses in cantonments are in existence, they should be immediately revised to accord with the present market value of buildings. In cantonments where the House Accommodation Act does not apply, it is presumed that there is nothing against house owners putting up their rents.

Part V.

### CHAPTER III.—THE CANTONMENTS ACT, 1910.

28. We now proceed to the examination of the Cantonments Act (Act XV of 1910). We found ourselves unanimous in the opinion that only a very few changes were necessary. The Cantonments Act (Act XV of 1910).

For the most part the Act provides adequately for all matters appertaining to the administration of cantonments. The Act provides for the appointment of a Cantonment Magistrate for each cantonment beyond the limits of Presidency towns and defines his relations to the civil district staff.

In paragraph 11 of this Report we have definitely recommended the separation of judicial functions from executive functions. To ensure that the magistrate of the cantonment should in future be the judicial officer appointed by the Local Government entrusted exclusively with the judicial work of the cantonment, all that is required is that paragraph 4 of the Act should read :—

“ For every cantonment, beyond the limits of the Presidency town, there shall be a Cantonment Authority and a Cantonment Magistrate. The latter will be either the District Magistrate or a civil official working under him and exercising judicial powers within the cantonment.”

These civil officials should not be charged with any part of the executive powers of the Cantonment Magistrate.

The All-India Cantonments Association have brought forcibly before us for discussion the question of amalgamating the present Cantonments Act and Code into one Act to be called the “ Cantonments Act ” on the same lines as a Municipal Act. Amalgamation of Cantonments. Act and Code.

The official members do not consider that the wholesale adoption of such a measure would be either expedient or wise for the following reasons :—

- (i) The present Code, consisting, as it does, of rules made, from time to time, by the Governor-General in Council is an effective instrument for the good administration of cantonments as it can be easily altered or added to as occasion requires ; and

Part VI of our  
proceedings.

- (ii) the amalgamation of the two would involve fresh legislation in the passing of an Act which would be difficult of subsequent alteration where measures of imperative importance and urgency were found to be necessary for the welfare and interests of the troops.

The reasons advanced by the non-official members in favour of amalgamating the Cantonments Act and Code are :—

- (a) That cantonment administration should as far as possible be analogous to municipal administration which latter is governed by one Municipal Act.
- (b) That all cantonment laws and regulations relating to the civil administration of cantonments should be embodied in one Act to be passed by the Imperial Legislative Assembly and Council of State who are the only competent authorities to frame laws and regulations, and if any additions or alterations are deemed necessary to that Act, they should be made only with like sanction.
- (c) That the present system whereby the Governor-General in Council is empowered to frame rules on the recommendation of the military authorities is most unsatisfactory and opposed to all legal justice.
- (d) That the plea of delay involved in moving the framers of the legislation to amend the existing law in cases of imperative military importance is untenable in view of the fact that the Governor-General in Council has sufficient power already to cope with emergencies by the adoption of special measures and ordinances.

There is, however, in our opinion, much of the Code relating to rules of general application which might be well embodied in the Cantonments Act when revised.

In our detailed examination of the Code we have recommended the following alterations :—

- (a) The following sections of the Cantonment Code might be omitted altogether :—

Section 17, sub-sections (2), (3) and (4).

Section 28.

Section 29, sub-section (2).

Sections 34—57.

Section 59.

Section 74.

Section 122.

Section 124, sub-section (3).

Section 134, (a), (b) and (c).

Section 139.

Section 143.

Section 211, sub-section (2).

Section 219, sub-sections (1) and (2).

Proviso to section 225.

- (b) The following chapters and sections of the Cantonment Code should take the form of bye-laws in one general chapter of the Cantonments Act (*see* paragraph 57, page 27 of this report.)

(i) Chapter VI, sections 69 to 87 regarding sanitation.

(ii) Chapter VII, sections 88 to 107 regarding control over buildings, boundaries, and trees, etc.

(iii) Chapter VIII, sections 108—156 regarding control over encamping grounds, private markets and slaughter-houses, traffic, burial and burning grounds.

(iv) Chapter X, sections 172—181 regarding licenses,

(v) Chapter XI, sections 182—212, regarding prevention of infectious and contagious diseases, hospitals and dispensaries, pilgrims.

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Proceedings.

- (vi) Chapter XIII, sections 220—222 regarding grazing and control of animals permitted to graze.
  - (vii) Chapter XIV, sections 223—225 regarding prevention of fire.
  - (viii) Chapter XV, sections 226—230 regarding registration of births and deaths.
  - (ix) Chapter XXIII, sections 277—280 bye-laws regulating hill cantonments.
  - (x) Rules regulating fairs and industrial exhibitions within cantonment limits.
  - (xi) Rules to control and regulate the use and management of burial and burning grounds.
- (c) The following sections of the Cantonment Code might be suitably embodied in a new Cantonment Accounts Code.
- Chapter IV, sections 34—58 regarding receipts and expenditure, preparation of budget estimates, remittance of moneys to treasuries, etc.

We have dealt with these suggestions in our proposed amendments to the Code ; but the form in which they should be embodied in the Act is one which we cannot determine. It seems a matter for the consideration of the Legislative Department.

29. It came to our notice during our examination of the Act that, in some instances, taxation was imposed by the Local Government without the Cantonment Authority being consulted. This, we are of opinion, is irregular. The body in whom is vested the management and control of local affairs and finance should be the authority to say whether taxation is or is not necessary as they are in better position to know the financial aspect of the Cantonment Fund. Section 59 of the Cantonment Code lays down the channel for submission of proposals for taxation. We consider that the Cantonment Board should be the sole authority for initiating proceedings and for submitting proposals for sanction of the Local Government. We have, accordingly, amended section 15 of the Act to provide that it can be only on the recommendation of the Cantonment Board that taxation can be imposed.

General policy of taxation.

30. The provisions of section 19(2) of the Cantonments Act refer, amongst other matters, to the maintenance of the police force employed in a cantonment. This applied correctly in former days when Cantonment Funds had to pay for the upkeep of the cantonment civil police. Since, however, Cantonment Funds have been relieved of the cost of maintenance of the police in cantonments, all references thereto, might now be omitted, so as to bring the Act up to date.

Reference to Police Force.

31. The Act lays down that a Cantonment Fund is vested in His Majesty by virtue of the Government of India Act of 1858, which provides that the entire revenues of British India vest in His Majesty.

Vesting and management of Cantonment Funds.

The non-official members were not at first agreeable to the retention of these provisions as they considered that, as the Cantonment Fund is a local fund and deemed to be public revenues, it should vest in the Cantonment Board. After some discussion on this point they, however, accepted the statutory right vested in His Majesty.

We recommend that the existing provisions of section 21 should stand.

32. Section 23 of the Cantonments Act gives a wide power to the Governor-General in Council to apply to cantonments any enactment which is in force in any municipality in British India.

Extension of enactments to cantonments.

In view of the variable conditions prevailing in every part of British India, it seemed to us and more to the non-official element, that what was considered desirable or necessary in one Province of India, might be unsuitable in another, and that, in consequence, the extension of any enactment which may be in force under one Provincial Government might easily be found to be harsh and unnecessary under another.

We would therefore suggest a slight amendment of the section by omitting the words "in British India" and substituting for it the words "within the territories administered by the Government of the Province in which the said cantonment, or the part of it, lies."

This amendment would have the effect of restricting the application of enactments to those that are in force in the Province only, which, we think, would be more reasonable. It would introduce into cantonment administration greater uniformity with civil administration.

Appointment of agents.  
Part VII.

33. The Act provides, under section 24(27), for the appointment by owners of suitable persons to act as their agents in cases of absence.

It was apparently overlooked by the Legislature that, though absent from cantonment, the owner might himself be residing close to, or within the vicinity of, the cantonment. It is obvious that in a case of this nature there would be no necessity for the owner to appoint an agent for his house property as he would be close at hand himself to comply with all notices and demands.

We, therefore, recommend that just as an agent is acceptable if he lives near a cantonment, the owner should be eligible to act for his own property if he himself resides near a cantonment. We have accordingly amended that section and clause to provide for this eventuality.

In the case of houses which have been requisitioned by Government on a five years' repairing lease, which we have suggested should be introduced into the House Accommodation Act, there would be no necessity for the application of any rule made under section 24, clause (27). It is, therefore, suggested that a clause should be added exempting the latter case.

Supplemental provisions respecting rules.  
Part VII.

34. With regard to the publication of rules made by the Governor-General in Council under section 24 of the Cantonments Act, the Committee recognized the necessity for wider publication and circulation of all matters pertaining to the amendments of existing cantonment laws and rules. As it is at present the residents of cantonments remain in ignorance of the introduction of any statutory changes that may be made from time to time in the House Accommodation Act, the Cantonments Act and Cantonment Code, because the *Gazette of India* in which these changes are notified is not always accessible to the inhabitants of the place.

We recommend that all draft rules with respect to any addition or alteration to existing cantonment law should be, not only published in the *Gazette of India*, but that copies of it should be sent to all Cantonment Authorities, for their information and for circulation among the residents of the cantonment so as to enable any person dissatisfied with any proposed amendment to put forward his objection, if any, if he so desires within a time to be specified, but ordinarily not exceeding three months.

Elimination of imprisonment.  
Parts IX, X, and XII.

35. The question of doing away with imprisonment as a form of punishment for breaches of cantonment rules was considered and discussed at length.

Section 25 (4) of the Cantonments Act empowers the Governor-General in Council to direct that a breach of any rule made under section 24 shall be punishable with a fine which may extend to fifty rupees or with imprisonment which may extend to eight days.

The non-official members advocated that imprisonment should only be given in default of payment of fine.

The official members did not agree for the reason that the retention of such a power was always very necessary whenever it was required to be applied to any particular section of the Code, as for instance, sections 214, 215, 216 and 217, etc.

Part I.

Imprisonment in default is in any case a natural consequence and authorized under the provisions of the Indian Penal Code. The Committee, however, after an examination of the various sections of the Code unanimously recommend that imprisonment be restricted only to cases falling under the provisions of sections 162, 166, 175, 210, 215, 216, 218 and 277. In all other cases where it was directed that a breach was punishable with imprisonment, it should be deleted; the offence being made punishable with fine only. With regard to sections 214 and 217 of the Code, the official members are not only in favour of the retention of imprisonment provided for in those sections but they strongly recommend that the term of imprisonment and amount of fine should be enhanced. Similarly offences under sections 215 and 216. (*See* paragraph 67, page 31, of this report.)

Part IX of our proceedings.

36. The legal protection afforded to the Cantonment Board and certain officials who, in their capacity of executive administrators, have been empowered under the Cantonments Act and Code to carry out executive duties, is always a very necessary privilege and one that is generally provided for in all laws and regulations. Protection to  
Cantonment Au-  
thority, Magis-  
trate and Com-  
manding Officer.

It has been strongly urged by the non-official members that the last sentence "whether the thing done was or was not authorized by the powers so conferred" should be deleted.

They contend that, while an official needs all protection when he does things within his sphere and under the powers conferred upon him, he deserves no such protection when he acts beyond his sphere and exceeds his powers. A provision to afford protection in the latter case will mean a distinct encouragement to official excesses.

The official members are unable to agree to this suggestion on the ground that the omission of these words would alter the entire meaning and object of the section, which is intended to safeguard officials charged with responsibility of administration.

If there was no such provision, the authorities responsible for the management of local affairs would be reluctant, or would even have justification to refuse, to carry out those responsibilities.

The official members recommend strongly the retention of this statutory right of protection, but the non-official members agree to this retention only with the above modification.

#### CHAPTER IV.—THE CANTONMENT CODE, 1912.

37. Prior to proceeding with our examination of the Cantonment Code of 1912, and proposing amendments of its existing provisions, we desire to point out that the Cantonment Code is divided into two distinct parts, namely:—

- (a) Rules made by the Governor-General in Council under section 24 of the Cantonments Act.
- (b) Enactments extended to cantonments by the Governor-General in Council under section 23 of the Cantonments Act.

It is noted that rules made by the Governor-General in Council can be revised in any way required, within reason, and provided that the amended rule is still really a measure for the carrying out of the purposes of the Act. On the other hand enactments, which are extended to cantonments cannot be amended except in such a manner as will leave the original enactment intact, and changes must be legally valid restrictions or modifications as is intended under the provisions of section 23 of the Act.

These principles have been kept in mind in our draft amendments to the Code.

With regard to the revision of the Cantonment Code, we are unanimously of opinion that the Code requires very drastic alteration and amendment. It is cumbersome and long and contains matter which should not be properly embodied in it, such, for instance, as Chapter IV on accounts and other directions which are nothing but matters of office routine work. We have already recommended that all the rules of general application should be embodied in the Act. There are others which can more fittingly take the form of bye-laws to be framed by the Cantonment Board. It was also considered feasible by us that the whole of Chapter XXII, relating to registration of land and building sites, should be omitted for reasons which we shall give in dealing with that chapter. The whole object is to simplify the Code as much as possible. We have accordingly scrutinized each section of the Code carefully and recommended such amendments or alterations as appeared to us necessary to meet the new system of administration proposed by us. (See paragraph 28, pages 15—17, of this report).

General remarks.

In order to suit the new military organization we have had to substitute "Area" and "District" for "Brigade" and "Division" and to alter their definitions. Similarly we have introduced a new term "the Competent Military Authority" with its definition.

We have also recommended already in paragraph 6, page 2, of this report, that the designation of "Cantonment Committee" and "Secretary, Cantonment Committee" be altered to "Cantonment Board" and "Secretary, Cantonment Board", respectively.

Functions of Cantonment Boards.

38. Throughout the Code it has been observed that the Cantonment Authority (or Cantonment Board as it is now called), has been vested with *quasi*-judicial powers, such as sanctioning prosecutions. According to Mr. Craik's Committee their recommendations are that the Cantonment Authority should not, on principle, exercise any judicial functions for the reason that they are functions properly assigned by law to the Cantonment Magistrate. Hence it is that throughout the Cantonment Code, Mr. Craik's Committee have recommended the substitution of the "Cantonment Magistrate" for "Cantonment Authority" thus enhancing the powers of the former.

We are unanimous in recommending that the functions of the Cantonment Board should be the same as are now discharged by the Cantonment Authority.

Constitution of Cantonment Boards.

39. We have already discussed this subject in paragraph 9, page 4, of this report as one of the main principles.

According to our recommendations we have retained the Superintendent of Police as a member, if deemed necessary, though in the Cantonments Act we have proposed to omit all references to the police force employed in cantonments as Cantonment Funds no longer contribute towards their maintenance.

As regards the Cantonment Lands Officer, we have already referred to him in paragraph 11, page 5, of the report.

The other members of the Board we do not propose to alter.

Our recommendations are that where the finances of the Cantonment Fund admit of the appointment of a whole-time paid Secretary there is no objection to one being appointed.

Position and functions of the President and Cantonment Magistrate.

40. This subject we have referred to in full in paragraphs 10 and 11, page 5 of this report. It has been discussed as one of the main principles.

Powers of control. Part VIII of our proceedings.

41. Sections 13 to 16 of the Cantonment Code relate to powers of control over decisions and actions of the Cantonment Board. This power of control is vested in a number of authorities who exercise it in their civil capacity. On the military side we have the President, Cantonment Board, the Officer Commanding the Area, and the Officer Commanding the District, and on the civil there is the District Magistrate, and the Local Government, all of whom have been apportioned certain controlling powers.

We recognize and accept the principle that there should be control in certain cases by superior authority but it is our considered opinion that the number of these authorities is excessive. With this view Mr. Craik's Committee entirely agree. Their number should be restricted to only two instead of five officials, and some of their powers might be, without detriment, curtailed. For instance, we think that the Local Government, and the District Commander, are sufficient, and we have modified all but the District Commander's powers. In view of the paramount necessity for military control in all cantonments we recommend that the Officer Commanding the District or the Command, as the case may be, should have the exclusive power of modifying or cancelling a decision of the Board and not the Local Government. The Local Government's interference would be only necessary, we think, in cases where the decision of the Board might be prejudicial to public health, safety, or convenience, and then it should only have the power of directing suspension, or referring the matter to the District Commander with a view to his exercising his powers of cancellation, if necessary. We feel assured that in all other matters a mere reference by the Local Government to the Officer Commanding, District, would suffice to remedy any mistake that



might be prominently brought to notice, or that the spirit of the regulations has not altogether been followed.

The powers of the Officer Commanding the Area and District Magistrate would be restricted to only making a preliminary reference to higher authority if they were dissatisfied with any decision of the Board.

It is not proposed to give to controlling officers the powers now delegated under section 14 of calling for books and documents, of requiring the Cantonment Board to furnish statements, plans and estimates, as the Cantonment Board reconstituted as it is now with a larger proportion of nominated and elected members who will be representative of every important interest, with auditors annually auditing the accounts of the Cantonment Fund, should be able themselves to look after the local affairs of the State and hence they should be given wider responsibility. We think that interference by superior authority will be only necessary in certain emergent matters affecting military interests and the public health, safety and convenience, but not in small unimportant cases.

Our recommendations, therefore, practically limit the exercise of control to two authorities, namely, the Officer Commanding the District or the Command, as the case may be, and the Local Government, the latter possessing the power of directing suspension with the power of referring any matter to the Officer Commanding the District, for such action as he may think fit. We have accordingly amended the law and re-numbered these particular sections as 11, 12 and 14.

42. Sections 20 and 21 empower the Cantonment Magistrate solely to appoint, dismiss, or reduce to a lower grade, or suspend, all servants of the Cantonment Authority. Appointment and dismissal of cantonment servants.

There was much discussion over this subject and the non-official members were, at first, all of opinion that there should be a limit to the extent to which the Cantonment Magistrate (the Secretary, Cantonment Board, as he will be now) could exercise this power vested in him. The official members were rather inclined to the view that there should be no relaxation, or change, in the present provisions.

In the end the Committee arrived at agreement and recommend with one dissentient (Lieutenant-Colonel Lawrenson, Cantonment Magistrate) that the Secretary should appoint and dismiss servants of the Board who were only drawing a monthly salary of Rs. 25, in the case of a servant whose pay exceeded Rs. 25 a month, he was to be appointed or dismissed only by the Cantonment Board. We have accordingly revised these sections in our amendments to provide for the limitation. Part VIII of our proceedings.

Intimately connected with the subject of control of cantonment fund servants is the question of their transfer from one cantonment to another. Transfer of cantonment servants.

It was found that no regulation existed which made cantonment fund servants liable to transfer, and instances have been quoted before us where clerks have been in cantonment offices for 30 to 35 years resulting in the establishment of undesirable precedents, alienation of land, loss of revenue, depletion of funds. Part IX of our proceedings.

This practice is much to be deprecated. We recommend that all cantonment fund servants including clerical and executive staff drawing a salary of Rs. 50 a month or more should be liable to transfer from one cantonment to another within the District, ordinarily on the recommendation of the Cantonment Board concerned. There would be no objection if they were transferred to stations outside the District at their own request.

The amendments in Annexure VI\* include these recommendations.

\* Not printed with this Report.

43. The question of the reduction in the amount of imprisonment provided under section 23 of the Code for sweepers absconding was next discussed. The views of Mr. Craik's Committee were that, as the offence was one which might affect the health of the troops and residents, the retention of two months' imprisonment seemed desirable. Reduction of imprisonment in section 23.

We, however, are of opinion that two months' is excessive, and recommend that the amount of imprisonment be reduced to 14 days, or a fine not exceeding twenty-five rupees.

Purposes to which Cantonment Fund may be applied.

44. (1) On a close examination of section 29 of the Code we find that some of the purposes to which the Cantonment Fund can be applied are distinctly irregular having regard to the fact that the fund, in most cantonments, is made up largely from the proceeds derived from taxation. For instance, the following sub-sections call for our remarks, more especially (j).

Lighting, watering and cleansing of streets.

*Sub-section (f) (ii)* provides that the fund can be spent on the "lighting, watering and cleansing of streets". This has a wide interpretation and may mean that the Cantonment Fund has to keep up and maintain roads in barrack areas, in the lines of troops, or leading to an arsenal, fort, and to departmental godowns, etc.

We are of opinion that this is not a legitimate or fair charge on the Cantonment Fund and we unanimously recommend the adoption of either of the two following courses :—

- (a) the amendment of sub-section (f) (ii) to provide for a clear limit to the extent to which the fund can be properly applied ; or
- (b) an annual grant to the Cantonment Fund by Government of a sum of money towards the maintenance of all such roads, as contribution works ; and if the cantonment is already State-aided the grant-in-aid should be proportionately increased.

In view, however, of probable financial difficulties arising in the giving of a grant-in-aid, we would prefer that Government should adopt the course outlined in (a) and amend the present rule so as to remove all irregularities in the Code, wherever discernible. The proper course would be for Government to make provision for the maintenance of all such roads in the Military Works budget.

Education.

(2) In connection with section 29, sub-section (g), it was observed that education was not sufficiently provided for. The subject was brought to our notice by the non-officials who desired that there should be some provision in these rules laying down that a certain proportion of the Cantonment Fund can be spent on schools situated within cantonments.

We are of opinion that just as a proportion of the municipal fund is contributed towards education, so the Cantonment Fund, which is largely made up of income derived from taxation, should also be proportionately applied to education in cantonments. It seems a perfectly legitimate purpose.

We recommend, therefore, that a new clause should be inserted after clause (p) providing that a minimum proportion of the Cantonment Fund should be allotted to education in cantonments, such proportion being that which obtains in the adjoining municipalities of the province. What that proportion should be must be left to the local authorities of each cantonment to determine subject to that minimum.

In our draft amendments at the end of section 29 (new 27) we have made due provision for the addition. To make it clearer we have also added the words "other charitable public institutions" after the word "school" in sub-section (g).

Conservancy of Indian troops.

(3) *Sub-section (j)*.—The question of the legitimacy of Cantonment Funds providing for the cost of the entire conservancy of Indian troops was next discussed. We found that in all cantonments throughout India and Burma, the conservancy of Indian troops and followers was debited to the Cantonment Fund and that, on an average, the sum involved amounted to as much as 25 per cent. of the total annual expenditure. After mature consideration of the subject we came to the unanimous conclusion that, on principle, it was an illogical and unfair charge on the fund under the provisions of section 29, sub-section (j).

Part VIII of our proceedings.

The terms of sub-section (j) clearly indicate that the Cantonment Fund can be applied to carrying out a proper system of conservancy "for all inhabitants in the cantonment, other than classes of troops for whom conservancy is provided from public revenues other than the Cantonment Fund". The present practice, in existence for many years, has been to interpret that, as British troops are the only classes of troops whose conservancy is provided from public revenues, therefore



the conservancy of Indian troops is chargeable to the Cantonment Fund. In the opinion of the Committee this is illogical. It is clearly the duty of Government to provide for the conservancy of all classes of troops, units or formations, and public and private followers, in a cantonment. The tax-payer has, unquestionably, a good cause to complain of this unfair expenditure and we welcome the intimation given by General Charteris that the Army Department are only awaiting a more favourable financial opportunity for removing the grievance.

Part II of our  
proceedings.

We unanimously recommend that Cantonment Funds should be relieved at an early date of all charges connected with the conservancy of Indian troops and public and private followers residing in regimental lines, and that, sub-section (j) should be amended accordingly. We have, hence, provided for alteration in the revised amendments in Annexure VI.\*

\*Not printed  
with this Report.

(4) *With regard to section 29, sub-section (2)* we think that this is sufficiently provided for in section 19 (2) of the Act which already gives to Local Governments the power of applying the Cantonment Fund to other purposes outside the cantonment.

We, therefore, recommend that this sub-section should be deleted as it seems superfluous. It has been omitted in our draft amendments.

45. It is observed that the rest of Chapter IV of the Code, in which is included section 29 above, merely consists of rules and instructions pertaining to the preparation of budgets and estimates, to the manner in which appropriation from one budget head to another can be sanctioned, to the manner in which payments are to be made and receipts are to be credited, to the method of remitting money to the treasury and so forth. All this, we think, might be removed from the Cantonment Code and embodied in a new Cantonment Accounts Code on the analogy of the Municipal Account Code. We have referred to this subject in detail in paragraph 28, page 15 of this report. It seems unnecessary to provide legislation for rules which are more or less matters of ordinary office routine work, and which can more properly be put in a book of instructions. The object contemplated is to simplify the Cantonment Code as much as possible. It is, therefore, our unanimous recommendation that, with the exception of section 29, the rest of this chapter should be taken out of the Code and embodied in an Accounts Code on the analogy of the Municipal Account Code.

General remarks  
on Chapter IV of  
the Code.

46. Chapter V of the Code deals with contracts and leases, but it does not specifically state what officer is authorized to execute those contracts and leases. To obtain that information we are referred to Resolution 713—34 of the 2nd June 1913 of the Government of India in the Home Department, which was published in the *Gazette of India* of 1913, Supplement, page 1195.

Contracts and  
leases.  
Section 60.

In that we find that Contracts and Instruments relating to cantonments may be executed as follows :—

(a) Contracts relating to land belonging to Government situate in cantonments, if for periods exceeding 12 months in each case.

By the General Officer Commanding the Area or District.

(b) Contracts relating to land belonging to Government situate in cantonments, if for periods not exceeding 12 months each case.

(i) By the Secretary to the Cantonment Committee in cantonments where there is such a committee, and,

(ii) By the Officer Commanding the cantonment in those cases in which a Cantonment Committee has not been constituted.

This resolution would appear to authorize the Secretary, Cantonment Board, and the Commanding Officer of the Cantonment, respectively, to execute contracts and leases for all Government land under 12 months whether made by the Cantonment Authority or by a military department in occupation of the land as it does not specifically refer to section 60 of the Code. The result would thus be that land, which is usually now leased by the Military Works Services such as, brick fields, rifle ranges, and detached areas outside the limits of a cantonment, should,

strictly speaking, be leased and the contract executed, by either of the authorities mentioned in the resolution as the case may be, and, moreover, it would appear right to conclude that all income derived from these leases should properly be credited to cantonment rather than to Imperial Funds where the lease is executed by the Secretary, Cantonment Board. On the other hand, neither does the Code nor this resolution provide for the execution of leases and contracts of land situated outside cantonment limits which is placed under the management of the Cantonment Committee; such for instance, as old disused rifle ranges which have been let out to cultivation by the Cantonment Authority and the proceeds from which are credited to the Cantonment Fund.

We are informed that there are no less than seven kinds of lands which we classify as under :—

- (a) Land inside cantonments which belongs to Government in the Army Department and placed under the management of the Cantonment Authority in usufructuary possession.
- (b) Land inside cantonments which belongs to the Cantonment Authority being bought or acquired from Cantonment Funds.
- (c) Land inside cantonments which is privately owned.
- (d) Land inside cantonments which belongs to the civil Local Government in the Public Works Department.
- (e) Land inside cantonments which belongs to the Railway Administration.
- (f) Government Land outside cantonments and under the management of the military authorities.
- (g) Government Land outside cantonments and placed under the management of the Cantonment Authorities.

Legislation should thus cover all these cases, and we, therefore recommend to Government that either sections 60 and 61 of the Cantonment Code, or the Home Department Resolution, or both, be amended so as to cover the question of contracts and leases in the case of all these various lands, otherwise the present system is apt to be very conflicting and it may give rise to undesirable controversies between the military, civil and Cantonment Authorities.

Filling up of tank or marshy ground, section 82, 82, 47. With regard to the question of filling up a tank or marshy ground under section 82 of the Code, it was decided that the following addition be made to the proviso to this section :—

“ The principle should be observed that where a depression or excavation is of long standing the cost of filling it up should ordinarily devolve on the Cantonment Fund.”

Execution of leases for sub division or extension of existing sites. Part IX of our proceedings. 48. Some little discussion arose in connection with the subject of compulsory requiring leases to be executed in the case of sub-division of, or extension of, existing building sites.

Khan Bahadur Seth Adamji Mamooji represented to us that it is a growing practice in certain cantonments where an application is made by an owner for the re-erection of, extension of, or additions to, existing buildings, to the Cantonment Authority, to call upon the applicant to execute a lease for the whole site before his request is sanctioned under the authority of paragraph 25, page 155, Cantonment Manual.

On a perusal of paragraphs 25 and 26, page 155, of the Manual we observe that the instructions are that Cantonment Authorities should not permit any sub-division of, or an extension of, existing building sites which were granted prior to the Cantonment Code and without leases, unless the owner executes a proper lease under Chapter XXI of the Code for (a) in the case of a sub-division of an existing site *the whole site*, and for (b) in the case of an extension of an existing site *the old and the new sites*.

The orders do not refer to buildings but only to sites. We, however, are of opinion that the instructions contained in paragraphs 25 and 26 of the Cantonment Manual, even literally interpreted, are illegal and bear harshly on the house owners in cantonments.

It seems unfair to expect an owner who has been granted a building site under the old conditions of tenure to execute a lease under newer and stricter conditions for the whole site because he wished to sub-divide the estate and build two houses instead of one on it, or because he desires to take in a new piece of land in extension of the existing site.

It is not necessary, in our opinion, that new leases should be executed in respect of sites which the owner desires to sub-divide. The whole site was originally granted to him and if he wishes to build another house on that site for residential purposes there would seem to be no objection to it. In fact it would be advantageous to allow the owner to do so as it would augment the accommodation available for military officers.

In the case of an extension of an existing site, however, the circumstances are somewhat different. The owner is virtually applying for a new piece of State-owned land, and for that it seems clear that he will be obliged to execute a lease under terms of Chapter XXI, Cantonment Code, but we do not think it either fair or reasonable to expect that the applicant should execute a lease for the old site also.

We, therefore, unanimously recommend that the instructions in the Cantonment Manual should be amended at an early date, and that no directions relating to leases of building sites in cantonments should be issued from Army Headquarters where they involve the extended application of existing law. Chapter XXI of the Code is the only law relating to the execution of leases for building sites, and if any alterations in the rules are found to be necessary affecting such leases, the Code should be amended as provided for under section 24 of the Cantonments Act.

49. With regard to the constitution of special Committees under section 83, Cantonment Code, we think that there should be an elected member of the Cantonment Board in addition to the Civil Surgeon on the special committee.

Removal of over-crowded buildings. section 83. Part VIII of our proceedings.

50. While on the subject of leases, we find it necessary here to refer to section 112, read with section 89, of the Cantonment Code, relating to temporary occupation of land. The provisions of sections 89 limit temporary occupation of land in cantonments to cases where a person applies to deposit or stack building materials, or to excavate, or to put up a temporary shelter. For the grant of permission for these purposes it is laid down that a fee can be legally levied. This section seems to require no alteration. Section 112, however, relates to pitching of tents and camping grounds. The legislature apparently omitted, when framing this section, to exempt from the operation of this section the case of troops encamping in the cantonment, as it would be distinctly irregular for the Cantonment Authority to give sanction in these cases. They overlooked in addition the necessity for charging a fee on persons occupying sites temporarily, or on circus and theatrical companies applying to pitch tents.

Temporary occupation of lands.

It is not clearly expressed either as to who is to select the site and what conditions should govern temporary occupation, etc.

After due consideration of these points, we unanimously recommend that section 112 should be amplified and made clear to provide for the following matters: Part VIII of our proceedings.

- (a) Exemption from its provisions of sites where tents are pitched for soldiers, segregation camps, for charitable or public purposes, etc., and also site occupied by subordinate officials of military departments.
- (b) The imposition of a fee on the same lines as in section 89 in return for conservancy services rendered.

We recommend also that the Secretary, Cantonment Board, should be empowered to select sites, grant permission for all temporary occupation of land as he is the officer authorised to execute leases under section 60 of the Code for periods under 12 months, and to determine the amount of the fee.

We have, accordingly, provided for these alterations in the draft amendments in Annexure\* VI.

\* Not printed with this Report.  
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Removal of dilapidated buildings.

51. Difficulties have been experienced by Cantonment Authorities in cases where it has become necessary, on sanitary grounds, to either enforce repair or alteration to dilapidated buildings, or to resume sites occupied by ruined mud walls in cantonments.

Section 85 of the Cantonment Code is the only law on the subject. By its provisions a Cantonment Authority can enforce repair or alteration to a building only when the building is so ill-constructed or dilapidated as to be in an insanitary condition. Owing to the bad drafting of this section, rendering it capable of misconstruction, it has given rise to much controversy in the law courts; and cases have been reported to Government where the prosecution has failed on the ground that, though the building may be a ruin, some sanitary defect has not been proved to exist. As an example it has been ruled by the Allahabad High Court that a building need not necessarily be insanitary by reason only of its ill-construction or dilapidation. To render, therefore, a prosecution successful it has to be shown that a ruinous or dilapidated building is insanitary. This becomes a difficult matter to establish, for a mere ruined mud wall need not *per se*, have any sanitary defect. The section, therefore, as it stands, is defective and unintelligible. The aim and object of the law, apparently, was to provide Cantonment Authorities with the power to enforce repair or alteration to dilapidated buildings generally. There was no need to qualify such cases with any particular condition.

Moreover, in actual practice, this section serves no useful purpose as it does not authorise removal in cases where it is considered that neither repair nor alteration would suffice to remedy the evil. It can safely be said that in most, if not in all, cantonments there are bazaar buildings to be found which are in such a state of ruin, for example, a broken down mud wall, that removal is the only possible remedy. It is in such cases, we think, highly advisable that the military authorities should be armed with a legal weapon for enforcing resumption of sites, such resumption being always conditional on payment of compensation to the owner and exercised only when the owner has had a reasonable notice and has failed to execute repairs within the time specified in the notice. We allude here to the military authorities because they are the owners of the land and they are necessarily the proper authority to resume sites.

Part VIII of our proceedings.

We unanimously recommend, therefore, that section 85 should be revised to make it clear that;

- (a) Cantonment Authorities can enforce repair or alteration to any ruinous or dilapidated buildings wherever situated in cantonments, and
- (b) Military Authorities, where Government owns the land, can resume sites occupied by buildings in a ruinous or dilapidated state wherever situated in cantonments, on payment of compensation, and after giving reasonable previous notice for repairs.

Any question arising as to whether the building should be repaired, altered, or the site resumed, must be left for the decision of the Cantonment Authority.

Lopping of trees, etc. Section 101. Part VIII of our proceedings.

52. The power here vested in the Commander-in-Chief seems unnecessary. In the opinion of the Committee the Cantonment Board is the proper authority to decide such matter subject to the previous sanction of the Officer Commanding the Area.

The reference to one higher authority is sufficient to prevent erratic action.

Improper use of land. Part VIII of our proceedings.

53. With reference to the existing procedure for regulating the improper use of land in cantonments, we consider that the first notice should be issued by the Secretary, Cantonment Board, but that the subsequent notice in writing to restore the land to its former state should be issued by the Cantonment Authority.

Import of cattle and flesh.

54. We next considered the provisions of section 137, Cantonment Code, relating to the import of cattle and flesh into cantonments. It was brought to our notice that cattle-owners are experiencing difficulties by being prosecuted when driving their animals through the cantonment for sale or consumption in the civil station or municipality.

The present law, in our opinion, appears to give wide powers in this respect, namely, making punishable the importation without permission of cattle wherever destined. We think there should be some restriction in the powers here conferred on the Cantonment Authority. It seems unreasonable to prohibit acts of this nature as it may happen that the road through the cantonment might be the only possible way along which a herd of cattle or sheep can be driven for sale elsewhere.

We recommend now that section 137(1) should be amended exempting cattle driven or meat carried through a cantonment for sale or consumption elsewhere, and that this exception should be made clear. Part XII of our proceedings.

#### GENERAL OBSERVATIONS ON CHAPTER VIII.

55. Our attention has been drawn to the inconsistent manner in which the penalty sections throughout Chapter VIII of the Cantonment Code have been arranged. They are widely distributed and it becomes difficult to discover what the penalty is for any particular breach of the rules. For instance, we think, that the penalties prescribed in sections 121, 123, 125, 231 (3), 133, 135 and 137 (3) might be combined in a single section at the end of this part of the chapter after the explanation to section 137. General observation on Chapter VIII of the Code.

We accordingly recommend this for the sake of simplicity.

We propose little or no alteration to the rest of Chapter VIII or to Chapter IX of the Code.

56. We next come to Chapter X, section 172, Cantonment Code, relating to licenses for trades and occupations. Imposition of a license fee under section 172, Cantonment Code.

The question was raised of amending this section with a view to providing for the levy of a license-fee under the authority of the new amendment to section 24, clause 20, of the Cantonments Act. We note that the old Code of 1899 made provision for the levy of a license fee for all licenses issued under this section, but as it was not authorised by the Cantonments Act, the imposition of such a fee was rightly deemed to be *ultra vires*. Since then the Act has been amended making the levy of a license fee legal, and the question before us is whether the levy of such fee should not now be provided for in section 172. On principle we see no objection to it. It seems only just and proper; but we are of opinion that such a fee should not be levied in cantonments in which the Local Government have imposed a tax on trades and professions, simply because if both taxes were in force the tax-payer would be paying twice over identically the same in kind and amount. We, therefore, recommend that provision should be made in section 172 for the imposition of a license fee in cantonments only where no tax on trades and professions has been imposed under section 15 of the Cantonments Act. Part VIII of our proceedings.

We also recommend that proposals for the imposition of any such fees should be first sanctioned by the Local Government on the same lines as the levy of any tax under section 15 of the Act, and not by rendering it operative by merely a resolution of the Cantonment Board.

57. The present powers conferred on the Cantonment Authority to make bye-laws are very limited and distributed in two places in the Code. For instance, section 174, Chapter X, gives the power to make bye-laws as to vehicles, boats and animals, and to limit the rates of hire, and Chapter XXIII, sections 277—280, give the power to make bye-laws for regulating hill cantonments. Bye-laws.

This mode of scattering legal powers relating to one subject is, we think, obviously undesirable.

The limitation, too, of matters which should be relegated to bye-laws is, in our opinion, quite unnecessary.

We unanimously recommend that greater latitude should be given to the Cantonment Authority to make bye-laws and that there should be, on the same lines as in the Punjab Municipal Act, one general chapter on bye-laws providing for the following matters:— Part VIII and part IX of our proceedings.

- (i) Chapter VI—sections 69—87 relating to the provision of latrines and conservancy establishments, the provision of receptacles for all offensive matter, regulation of private latrines, etc.

- (ii) *Chapter VII*—sections 88—107 relating to the control of boundaries and trees.
- (iii) *Chapter VIII*—sections 108—156 relating to encamping grounds to markets and slaughter houses, etc.
- (iv) *Chapter X*—sections 172—181 relating to licenses and the conditions on which licenses are to be issued, also section 174 which empowers the Cantonment Authority to make bye-laws for regulating vehicles boats and animals.
- (v) *Chapter XI*—sections 182—212 relating to the prevention and treatment of disease, to hospitals and dispensaries, to routes for pilgrims and others.
- (vi) *Chapter XIII*—sections 220—222 relating to grazing and control of animals permitted to graze.
- (vii) *Chapter XIV*—sections 223—225 prevention of fire.
- (viii) *Chapter XV*—sections 226—230 registration of births and deaths.
- (ix) *Chapter XXIII*—sections 277—280 the existing provisions relating to the regulation of hill cantonments, penalties, and so forth.
- (x) Rules regulating fairs and industrial exhibitions within cantonment limits.
- (xi) Rules to control and regulate the use and management of burial and burning grounds.

It is for the draftsman to consider how this can best be done.

Doubtful legality of some sections.

It may be noted that sections 173, 174, 175, 179 and a few other sections appear to be of doubtful legality in view of the wording of section 24 of the Cantonments Act. The legality of section 173 was examined by the Legislative Department in September 1918, when it was held that the Cantonment Authority could not properly be empowered to fix the parts of a cantonment in which trade may be carried on. In the same way it is arguable that we cannot properly assign to the Cantonment Authority the power of making bye-laws under section 174. On the question of policy, however, we consider that the Cantonment Authority should have the legal power to frame bye-laws, and that those bye-laws should be wide in their application. It is very necessary, therefore, for the Cantonments Act to be amended so as to give a wider power to the Cantonment Authority to frame rules regulating the above matters which we have proposed.

Keeping of brothels and prostitutes.

58. We observe that the provisions of section 179 of the Cantonment Code have now been legalised by the recent amendment to section 24 (23), Cantonments Act. This section gives the power to prohibit (a), the keeping of a brothel, and (b), the residence of a public prostitute in the cantonment. As it stands, however, its provisions do not extend to prostitutes residing elsewhere than in, but frequenting cantonments. Cases have been repeatedly reported to Government of where prostitutes have been living just outside the cantonment boundary and spreading venereal disease among the troops but are immune from the clutches of the law.

In our opinion it is very desirable for the purpose of preventing the spread of venereal disease that some legal machinery should be improvised which could be immediately applied to cases where prostitutes who live outside but are caught frequenting cantonments for the purposes of prostitution.

The only way to remedy this evil is by an amendment to section 179.

We recommend, therefore, that section 179 should be amended so as to include not only the existing provisions, but also that it should provide for the case in which a prostitute, though residing outside, frequents cantonments.

Powers to require names of dairymen and washermen.

59. We observe that an alteration to the provisions of sections 184, 185, Cantonment Code, was suggested by Mr. Craik's Committee who considered that these sections, as they stood, unnecessarily hampered action as the Cantonment Magistrate could not issue a notice until he received a certificate by a medical



practitioner. That Committee's recommendations were to alter the construction of the section to read as follows:—

“Where it appears to the Cantonment Magistrate that the outbreak or spread of any infectious or contagious disorder is attributable to the milk, etc.”

We do not think that any change is desirable. The present law seems adequate.

60. The present power conferred by the provisions of section 192 enables the Cantonment Authority to destroy or dismantle an infected hut or shed in order to prevent the spread of any infectious or contagious disease.

Section 192.  
Destruction of  
infected huts or  
sheds.

It seems to us very clear that where action has to be taken for the prevention and treatment of any infectious disease, that action must be immediate. Under the present rule no action can be taken, however urgent, until the Cantonment Board assembles once a month. There would obviously thus be grave delay in preventing a public danger if the authorities-responsible were to wait till the Board sat.

We would, therefore, remedy this evil by recommending that the law should give legal authority to the President of the Cantonment Board where such a Board is constituted, or to the Officer Commanding the station in other cases, to order in emergent cases the destruction or removal of any hut or shed which, in his opinion, is necessary in order to prevent the spread of any infectious or contagious disease. As the President is always near at hand he could, on the advice of the Secretary, act at once.

Part IX of our  
proceedings.

61. It is noted that section 193 empowers the Cantonment Authority to supply free of charge temporary shelter to any person who, by reason of the existence of any infectious or contagious disease, has been compelled to leave his house. Neither this section nor section 29 of the Code make any provision for the expenditure of funds on the erection of such temporary shelters, and the auditor of cantonment fund accounts has, it seems, disputed the legality of such expenditure.

Section 193.  
Provision of tem-  
porary shelter.

We recommend that there should be a provision in the Code legalising the payment from the Cantonment Fund of sums required for providing temporary shelters. This might best be done by adding a new clause to section 29 of the Code.

62. Section 199 provides for the restriction or prohibition of sale of articles of food or drink on the outbreak of any infectious or contagious disease, and introduces the District Magistrate into its provisions.

Section 199.  
Prevention and  
treatment of dis-  
ease.

We are of opinion that the “District Magistrate” should be taken out from this section as it seems unnecessary. We recommend, therefore, that the words “of the District Magistrate” should be omitted.

63. Section 202 empowers the Local Government to appoint a medical officer for every cantonment hospital or dispensary maintained or aided by the Cantonment Fund.

Section 202.  
Appointment of  
Medical Officer  
for Cantonment  
Hospital or Dis-  
pensary.

Since the Medical Officer, or Health Officer, as he is now named, receives an allowance from the Cantonment Fund, the Committee are of opinion that the Cantonment Authority should be the authority for appointing its own Health Officer to be in charge of the hospital or dispensary. It appears to us that it is quite unnecessary for the Local Government to interfere at all in this matter. It is not done in municipalities as the Board alone, it seems, has the power of appointment, dismissal, or discharge.

We, therefore, unanimously recommend that the section be amended by substituting for the words “in such manner as the Local Government may direct,” the words “by the Cantonment Authority.” We also consider that this section should include not only the power of appointment but of discharge or dismissal whenever the Cantonment Authority may think fit.

It is observed, moreover, that no provision exists in the Code for the grant of an allowance to a Health Officer appointed by the Cantonment Authority.

We would suggest that a clause should be inserted either after section 202, or in section 29, legalising the payment from the Cantonment Fund of such allowance.

Section 207.  
Paying patients  
in Hospitals.

64. It was emphatically urged by the non-official members of the Committee, and we also observe that it is the views of the All-India Cantonments Association, that there is a growing practice in Cantonment Hospitals and Dispensaries, which is very objectionable, for the Medical Officer in charge and his subordinate officials to demand and accept professional fees from persons attending at such hospitals or dispensaries for treatment.

Part IX of our  
proceedings.

We are unanimously agreed that the practice is objectionable as regards poor patients attending the hospital and recommend that section 207 should be amplified and a new clause added which would provide that neither a Medical Officer nor his subordinates can demand and accept fees for medical attendance on patients who come to be treated at the cantonment hospital or dispensary. We have revised the section in our draft amendments but we think that, before any such amendment is made, the medical authorities should be consulted.

The Cantonment Authority have the power we note, of framing any rules it thinks fit with respect to hospitals and dispensaries maintained from Cantonment Funds. It might be as well to leave it to each Cantonment Board to issue instructions on this subject to its own Health Officer. Instructions issued in this way would, doubtless, be just as effective.

Sections 208, and  
209. Removal of  
persons suffering  
from infectious or  
contagious disease.

65. Sections 208 and 209 give to the Medical Officer in charge power to remove persons suffering from infectious or contagious diseases who refuse to attend the Cantonment Hospital or Dispensary.

Some discussion took place on this subject. The chief grievance of the Indian community is that the rule of compulsory attendance at hospitals acts very harshly on respectable persons who happen to be suffering from an infectious disorder and who have proper house accommodation and are under proper medical treatment.

We entirely agree with these views. It would be obviously unnecessary in our opinion for the Medical Officer to insist that such persons should attend the hospital when they have equal, if not better, accommodation in their own houses than the hospital could supply, and who live in circumstances which involve no danger of the disease spreading among others.

We recommend, therefore, that section 208 should be so amended as to provide for the exemption from its operation of respectable persons who are receiving regular medical treatment, at their own private houses in circumstances which involve no danger to the public health.

This will best be secured by making the proviso to section 208 more definite than it is.

It is a clear obligation on the Cantonment Authority to provide satisfactory accommodation in their hospitals for all classes of persons affected, if their removal to the hospital is considered necessary.

Equity of power  
of exclusion.

There was some discussion as regards the equity of the power given to the Commanding Officer of the Cantonment to exclude persons from cantonments under this section on the recommendation of the Health Officer. On principle it was recognised that the power was a very necessary one. If no such provision existed, persons suffering from infectious and contagious disorders might be going about at large and disseminating disease. They would, obviously, be a public menace. We, therefore, recommend that the existing statutory power of exclusion should stand.

We differed, however, with the recommendation of Mr. Craik's Committee as to the manner of commencing proceedings against such persons and the authority who should have the power to pass the order of exclusion. That Committee considered that proceedings should be initiated by the Cantonment Magistrate on the report of a Medical Officer, and that the Cantonment Magistrate should pass the order of expulsion himself in the same way as he does for certain acts committed under section 215 of the Code, and that, similarly, his decision could be made appealable to the District Magistrate.



With these proposals we are unable to concur. The procedure prescribed in the present section seems sufficient. Though the Officer Commanding the Cantonment has got his general power of expulsion under section 216 of the Code, there seems to be no reason against his having additional power under section 208 in passing the order of expulsion of persons suffering from any infectious or contagious disorder whom the Medical Officer thinks necessary to exclude.

Section 209 (3) provides that a person once expelled under section 209 cannot enter any other cantonment in British India without the permission of the Officer Commanding of that cantonment. We propose to qualify this by the addition of a clause exempting such expelled persons as can show that they are no longer suffering from the infectious or contagious disorder which resulted in their expulsion.

We, therefore, unanimously recommend that the following clause be added at the end of section 209, sub-section (3).

“ Which permission shall not be refused on it being shown that the person concerned is free from infectious or contagious disorder ”.

It was suggested by Mr. Craik's Committee in accordance with their recommendations in section 209 that the Cantonment Magistrate should be the authority for giving permission to a person to re-enter the same cantonment or to enter another cantonment and not the Officer Commanding the Cantonment.

For the same reasons as we have stated in section 209, we do not think it at all necessary to alter the present law on that point.

66. It is noted that sections 213 and 214 deal with mendicancy and with persons loitering in streets or public places for the purpose of prostitution.

Mendicancy.

There appears to be no necessity for separating this from section 67 of the Code, as the latter section provides for the punishment generally of all offences committed on public roads or places.

We recommend, therefore, that sections 213 and 214 should be embodied in section 67. We have accordingly shown it in the draft amendments to the Code in Annexure VI.\*

\* Not printed with this Report.

While we were considering this subject, it was brought prominently to our notice that the penalty prescribed in section 214 was inadequate. Reports were received from the Southern Command of several cases in which prostitutes, and persons importuning others to the commission of sexual immorality, were convicted and punished with the maximum amount of punishment prescribed by law, but that it had no deterrent effect.

The majority of the Committee are of opinion that the punishment prescribed is light because the offence is one which may affect seriously the general health of the troops. With that view Mr. Craik's Committee is also in agreement.

The majority of the Committee, therefore, recommend that the penalty for an offence under section 214 should be raised to a fine of Rs. 200 or one month's imprisonment.

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It will be for the draftsman to consider how best he can provide for this enhanced penalty in section 67 in which we have proposed that section 214 should be embodied.

It is observed that any such enhancement of punishment would necessitate an amendment first of section 25 (4) of the Cantonments Act.

We recommend to Government that the Act should, therefore, be first amended.

#### *General Observations.*

67. As regards our recommendations to enhance the punishment provided for in sections 214 and 217, it is considered equally essential by the official members that the penalty prescribed for a breach of section 215 or section 216 should be also enhanced, in view of the seriousness of the crime.

General observations.

While agreeing to the increased fine, Lala Narain Dass advocated the abolition of the punishment of imprisonment. Mr. Cotelingam, on the other hand, did not

consider that the two or three cases reported by the Southern Command proved any justification for increasing the penalty for a breach of any of the above sections. Besides, in his opinion, the offence is not so serious as that under section 214. The Hon'ble Khan Bahadur Haroon Jaffer advocates that sections 215 and 216 should be deleted altogether.

With these views the official members are unable to agree as they think that the punishment is unduly light and there are cogent reasons for enhancing it.

They, therefore, recommend that section 288 which deals with punishments generally should be amplified to meet their proposals. Section 25 (4), Cantonments Act, will, however, require amendment first.

Section 219. Extension of Acts to cantonments. 68. Section 219 describes the procedure to be adopted for extending the Prevention of Cruelty to Animals Act, 1890, to any cantonment.

It appears to us that this rule is superfluous. They are executive instructions which might preferably be embodied in the Cantonment Manual. In actual practice, if the extension of any enactment to a cantonment is required, an application is submitted by the Cantonment Board to the Local Government who, if they consider its introduction is necessary, bring it into force.

Part IX of our proceedings. We therefore recommend that section 219 (1) and (2) be deleted as unnecessary. Sub-section (3), however, might remain as it is useful for Cantonment Authorities to know that where any particular enactment has been brought into force in any cantonment, it renders obsolete that portion of the Cantonment Code which refers to the same matter.

Section 220. Grazing and control of animals. 69. In discussing the provisions of section 220, our attention was drawn to the very limited nature of its applicability. For instance, inadequate protection to trees and public property is afforded by this section; and furthermore, it gives no power to the Cantonment Board to frame rules for grazing and for the control of animals permitted to graze. In actual practice, we find that all Cantonment Authorities do make their own rules for grazing but such rules are of doubtful legality.

We think it very necessary for Cantonment Authorities to be vested with the powers to frame rules for grazing and for the control of animals permitted to graze. We accordingly recommend, with the exception of one dissentient, that the chapter on bye-laws should provide for regulating the conditions under which grazing shall be permitted on land belonging to Government in a cantonment, and providing for a penalty in case of a breach of the rules which may extend to a fine of fifty rupees. Mr. Cotelingam only disagrees to the amount of fine and not to the principle.

We think the introduction of this new power should rightly go into the general chapter of bye-laws and it would suffice if a reference was merely made to it by the addition of a clause to section 220.

It was urged by Mr. Cotelingam that a fine of Rs. 25 would be sufficient. The remainder of the Committee were unable to agree and considered that Rs. 50 was reasonable as it is the usual penalty prescribed for all breaches of Cantonment rules. This chapter should, in our opinion, go to the general chapter on bye-laws.

Appointment of Agents. 70. Section 231 of the Code relates to the appointment of agents for all house property in Cantonments. We have already dealt with this subject on page 18, paragraph 33, of this report on the Cantonments Act.

Power of inspection, entry and search. 71. The law confers certain rights of inspection, entry, and search, on the Cantonment Magistrate, Cantonment Authority and the Health Officer (See sections 234—239).

Sections 234—239. An alternative suggestion to restrict the right of entry, inspection and search to the Cantonment Magistrate (Secretary, Cantonment Board) was considered, but rejected on the ground that the Health Officer should not be interfered with in his work. We think that the Health Officer and Secretary, Cantonment Board, should have independent power. But we recommend that the detailed list of matters given in the various sections be curtailed and simplified. We are also of opinion that

section 237 is superfluous and we recommend that its provisions should be embodied in sections 235 and 236, if necessary.

It is also very desirable that no entry should be carried out unless it is conducted in the presence of the Secretary, or an elected member, of the Board. Time of entry.

We unanimously recommend that to the proviso to section 239 (1) of the Code there should be added the following to provide for the proposals :—

“ that such entry should only be conducted in the presence of the Secretary or of an elected member of the Board.” Part IX of our Proceedings.

72. We have discussed appeals from executive orders in paragraph 13, page 6, of this report and submitted our views on that subject. Appeal and revision. Sections 245—249.

Section 247 specifies the particular cases in which action cannot be suspended pending an appeal.

These cases are :—

- (i) Section 78, clause (e).
- (ii) Section 85.
- (iii) Section 96.
- (iv) Section 209, sub-section (1).
- (v) Section 215, sub-section (3).
- (vi) Section 216.

As the first two sections do not, in our opinion, refer to anything so important as to call for immediate action, we recommend that they should be omitted from this category of cases. The effect of this will be to allow the owner of a house on whom a notice has been issued to repair or alter the house or a particular drain leading from it to have time to appeal against the order and that all action on such notice shall be suspended pending the result of the appeal.

Our opinion was divided with regard to the deletion of sections 215 (3) and 216. The official members recommend their retention in this section as action in cases under sections 215 and 216 could not possibly be suspended to permit of the disposal of an appeal.

The non-official members were opposed to this, as are the views of the All India Cantonments Association. Their views on this subject have already been fully expressed and recorded in Part VI of our Proceedings. (Annexure IV.)

73. On an examination of Chapter XX of the Code relating to Committees of Arbitration, we find that, like the corresponding chapter in the House Accommodation Act, the machinery provided throughout is too unwieldy and cumbersome to be of any practical utility. With the changed administration, this chapter requires to be reconstructed so as to introduce elective representation on Arbitration Boards, and to deal with other main factors. Standing Committees of Arbitration. Sections 250—260.

Our object is to simplify the procedure and make arbitration also possible in cases coming under section 92 (1) and the proviso to section 192.

We, therefore, unanimously recommend that the whole of Chapter XX of the Code should be so amended as to bring it into line with the new provisions regarding Standing Committees of Arbitration which we propose should be inserted in the Cantonments (House Accommodation) Act. Part IX of our Proceedings.

We also recommend that arbitration should be provided for in the case of disputes as to the amount of compensation payable under the proviso to section 92 (1) and the proviso to section 192.

Detailed recommendations are given in paragraph 26 on page 13 of the report and have been embodied in the draft amendments in Annexure\* VI. \* Not printed with this Report.

74. We now come on to the examination of Chapters XXI and XXII of the Code relating to the disposal of Government land and the registration of immovable property situated in cantonments. Disposal of building sites and registration of immovable property.

We are of opinion that these chapters are complicated and are of no practical utility and that, in accordance with our views already expressed, registration should be made compulsory and the institution of a civil suit would be the only practical remedy to get a sale or transfer objected to, declared null and void. The sections of these chapters may be amended in the light of these recommendations.

Retention of certain sections in Chapter XXI.

We are disposed to think, however, that sections 261 and 262 which deal with the mode of application for building sites should be retained, so also section 263, subject to decision hereafter as to who is to be the final authority for sanctioning the grant of those sites. Section 264 requires to be simplified, and made clear. It is for consideration whether this section might not be omitted altogether. Section 265 seems to be an executive instruction which might, with advantage, be removed from the Code.

On a survey of the whole subject we consider that to attempt further detailed revision of both chapters at this stage would probably be a waste of time and labour. If established, the Lands Branch will be in a position to frame rules for the disposal of all lands and for the registration of all immoveable property. These rules could then, if considered necessary, be re-introduced into the Cantonment Code in proper and practical form. The chief difficulty, which the law makes no provision for, seems to be the matter of enforcing registration.

We, therefore, recommend that the present Chapters XXI and XXII should stand but they should be entirely recast and simplified so as to provide, among other matters, for the following chief points :—

- (i) the enforcement of registration on the same lines as those in force in the Punjab for mutations,
- (ii) the provision of a penalty of fine for a breach of any rule in connection with the enforcement of registration.

As regards the preventing of owners from selling or transferring their property without permission, we think it is questionable whether any rule could be made. The only practical remedy for a breach of any such matter would be by instituting a civil suit to declare the sale or transfer null and void.

There is no provision under the present law for these matters and the result is that the existing rules for registration and mutation serve no useful purpose.

\* Not printed with this Report.  
amendments in Annexure\* VI.

We have accordingly left the present statutory provision stand in our draft

Delegation of functions under sections 281 to 283.

75. The power of delegation conferred by sections 281—283 of the Code would appear to be *ultra vires* in view of the wording of section 24 of the Cantonments Act. We bring this matter to the notice of Government with the object of having the Act amended, if thought necessary.

We recommend that the reference to the Governor-General in Council in sections 281 and 282 should be omitted if the Local Government is to be retained, and that section 282 be deleted as we think it is unnecessary.

Constitution of Sub-Committees.

Further, we agree, in view of the desirability for introducing elective representation, that the constitution of sub-committees appointed under section 283 should follow the constitution of Cantonment Boards in so far as it relates to the number of elected members. We unanimously recommend, therefore, that the following addition be made to section 283 (1) :—

“ the constitution of such a sub-committee shall follow the composition of the Cantonment Board in so far as it relates to the number of elected members.”

We also recommend that the words “ in any particular case ” should be omitted from the proviso to this section.

76. The general question of penalties was considered and discussed with reference to section 288 of the Code. It was unanimously agreed and recommended that the punishment of imprisonment provided in section 288 of the Code should be deleted, except for the following sections :—

Section 162 relating to the impairing or diminishing of the water supply.

Section 166 relating to the throwing of a corpse into source of water supply.

Section 175 relating to the feeding milch animals on refuse and filth.

Section 210 relating to the introduction into hospitals of liquor.

Section 214.—Loitering or importuning.

Section 215.—Expulsion by the Officer Commanding the Cantonment on the recommendation of the Cantonment Magistrate.

Section 216.—Expulsion by the Officer Commanding Cantonment, (It may be noted that as regards sections 215 and 216, a reference to paragraph 14, page 7, of the report will show that the retention of these sections and the amount of punishment are the subjects of divided opinion.)

Section 217 relating to persons harbouring and concealing persons who have been expelled.

Section 218 relating to cruelty to animals.

Section 277 relating to bye-laws regulating hill cantonments.

With regard to this subject we have already made it clear in our proceedings and in paragraphs 66 and 67, page 31, of this report, that the official members think that the punishment in sections 214, 215, 216 and 217 should be enhanced to a fine of Rs. 200 or to one month's imprisonment, but the non-official members consider the present provision sufficient. We suggest that these proposals be taken into consideration with the above recommendation in the cases where it is necessary to retain imprisonment. Lala Narain Dass considers that the punishment of imprisonment for an offence under section 217 is unnecessary.

77. Section 290 refers, among other matters, to the recovery of money due to the Cantonment Authority otherwise than on account of a tax. It was brought to our notice that cases had been recently reported from cantonments in which considerable difficulty has been experienced under section 290 (5), as amended, in the recovery of legal dues authorised under the Cantonment Code. The new amendment of 1918 to section 290 (5) of the Code, limits the power of recovery to only cases falling within section 290, sub-sections (1) to (3). The old Code of 1899, we observe, gave statutory power to recover all money, otherwise than on account of a tax, claimable by the Cantonment Authority under the Cantonments Act and Code without any limitation. Under that Code, Cantonment Authorities were able to recover, for instance, rents from cultivation and grazing, and any other form of land revenue.

The effect of the recent new amendment, however, has been to compel Cantonment Authorities to have recourse to the civil law courts for the recovery of all such demands as the amendment restricts the extent to which recovery can be made.

Recovery of money through the civil law courts is slow and involves considerable expense.

We unanimously recommend, therefore, that section 290 (5) should be either re-enacted on its original form, or, that the whole of section 81 of the Punjab Municipal Act should be extended to cantonments as it is wide in its application and it would meet the cases in point.

78. Provision is made in section 291, Cantonment Code, for the maintenance of standard weights and measures.

No provision, however, exists for the inflictment of any penalty in the case of a breach of this rule which enforces all shop-keepers to maintain only such weights and measures as will tally with the standard ones kept up by the Cantonment Authority.

We recommend that there should be a penal clause in this section. We consider that the punishment should be a fine only and that it should not exceed Rs. 10.

General observations.

Here again we think that the general penalty section (section 288) should be so arranged as to come at the end of the last chapter and that the penal legislation recommended above should then be included therein.

Schedules I, II, III, IV and V.

79. In our examination of the Schedules at the end of the Cantonment Code, it appears to us that little or no alteration is required in the first three.

In Schedule IV there is no provision for the arrest of those persons who rescue animals from being impounded. The want of such a provision has been felt in many cantonments where the offence is a common practice among graziers. We recommend that section 221 (3) of the Code be inserted in Part B of this Schedule so as to permit the arrest, without warrant, of persons who rescue, or attempt to rescue, animals being taken to the pound.

In Schedule V we propose to have all our recommendations concerning "appeals" in paragraph 13, page 6, of this report included. We would lay stress here again that the Cantonment Board will be, in future, the authority, under our proposals, to dismiss cantonment servants whose salary exceeds Rs. 25 per mensem. An appeal from their dismissal would ordinarily lie to the General Officer Commanding the District, but should the latter officer be the President of the Cantonment Board, as he might be, an appeal should then lie to the General Officer Commanding-in-Chief the Command. If, however, the dismissed servant was drawing a salary of Rs. 100 or more, we have recommended that he should be allowed an appeal to the next higher military authority.

Schedule VI relates to leases for building sites. We have no comments to make on any of the lease forms.

#### Conclusion.

Miscellaneous.

80. We have now come to the end of our examination of the Cantonment Code. Before leaving, however, the Hon'ble Khan Bahadur Haroon Jaffer placed before us some miscellaneous points for consideration which, he said, were advanced by the non-official members.

Those points are enumerated below :-

- (i) Immediate excision of Sadar Bazaar areas.
- (ii) Transfer of cantonment fund servants limited to a certain salary.
- (iii) The offensive nature of some of the forms of notices.
- (iv) Immediate action by Government on our recommendations.

With regard to the first, we have already dealt fully with the subject in paragraph 7, page 2, of this report.

We suggest to Government that as a first step towards arriving at a decision with respect to the excision of any area in cantonments, that it might perhaps be advisable, to appoint a small committee of officials and non-officials to visit those cantonments in which separation is considered feasible from any point of view. In any case, the views of the Local Government would have to be obtained in an important matter of this kind.

As regards the second point, we have made our recommendations very clear in paragraph 42, page 21, of this report which embodies the conditions of transfer of cantonment fund servants.

As regards the third point it was brought to the notice of the Committee that some notices issued to house-owners under the House Accommodation Act and Cantonments Act and Code were worded with unnecessary harshness and abruptness. The Committee did not examine these notices but they would, however, like to record their opinion that all cantonment notice forms should be scrutinised and, if necessary, redrafted so as not to give occasion for any offence.

As regards the last point, *i.e.*, the question of immediate action by Government, while we recognise that certain of our recommendations may involve further examination and possibly reference to the Secretary of State, we urge that action on those of our proposals as can be given effect to should not be delayed.

81. Our thanks are due to the All India Cantonments Association for its very useful notes handed to the Committee through the non-official members. The Association has rendered help at every stage of the preparation of this report.

82. Finally, we desire to record our thanks to the Secretary (Major Knowles) for the zeal and care with which he has prepared papers for the Committee. We are also greatly indebted to Major Knowles for the expert knowledge of cantonment affairs, a knowledge which he placed fully at our disposal throughout.

W. RENOUF, C.I.E., I.C.S., M.L.A.,

*President.*

J. CHARTERIS, COLONEL ON THE STAFF, C.M.G., D.S.O., R.E.

H. NEVILL, COLONEL, C.I.E., O.B.E.

T. LAWRENSON, LIEUT.-COLONEL,  
Cantonment Magistrates' Department

EBRAHIM HAROON JAFFER, KHAN BAHADUR,  
Member of Council of State

*Members.*

J. P. COTELINGAM, M.A., M.L.A.

ADAMJI MAMOOJI, KHAN BAHADUR

NARAIN DASS, B.A., LL.B.

J. K. KNOWLES, MAJOR,

Cantonment Magistrates' Department,

*Secretary.*



## SUMMARY OF RECOMMENDATIONS.

The changes which we have recommended are as follows :—

1. *General recommendations.*—The designation of “ Brigade ” and “ Division ” should be changed into “ Area ” and “ District,” and the term “ Cantonment Committee ” should also be altered to “ Cantonment Board,” etc. (*Paragraphs 5-6.*)

2. *General principles.*—Separation of Sadar Bazaar areas from the rest of the cantonment areas—

Recommended that excision was possible in only comparatively few cantonments where the Sadar Bazaar was contiguous to, but not surrounded by, military areas. In these cases steps should be taken with a view to excision being carried out. In cases where separation was impossible, the whole area should be administered by the Cantonment Board. (*Paragraph 7.*)

3. *Introduction of elective representation.*—Elective representation should be introduced into Cantonment Boards in the proportion of 50 per cent. of the existing members, that is, half elected and half nominated members, exclusive of the President who should at present be an official. This proportion is recommended for self-supporting cantonments and for State-aided cantonments whose grant-in-aid does not exceed 20 per cent. of the total revenues of that cantonment. In cantonments where the grant-in-aid exceeds 20 per cent. of the total revenues, the number of elected members may be reduced below 50 per cent.

As regards the total number of members who should constitute the Cantonment Board, it was decided to leave it to the Local Government of each Province to determine.

The franchise should follow the analogy of neighbouring civil municipalities. (*Paragraph 8.*)

4. *Constitution and functions of the Cantonment Board.*—Recommended the same number of members as provided for under existing statutory law, with the addition of 50 per cent. elected members and such residents in cantonments, whether officials or non-officials, if considered necessary to represent interests not otherwise represented.

The Superintendent of Police should only be required to attend if his presence on the Board is deemed necessary.

The Secretary of the Board should be the officer in substitution of the present Cantonment Magistrate, *i.e.*, the Cantonment Lands Officer. Where the finances of a cantonment can afford it, the Secretary should be a separate whole-time paid servant of the Board.

As regards the functions of the Board, there should be no diminution in the powers conferred upon them by existing statutory provision. (*Paragraph 9.*)

5. *Position of the President, Cantonment Board.*—The President of the Cantonment Board should be the officer appointed under section 3 (1), clause (a), Cantonment Code of 1912.

Recommended that there should be a Vice-President appointed in future, and that he should be elected by the Board. (*Paragraph 10.*)

6. *Position and functions of the Cantonment Magistrate.*—Recommended that judicial functions should be separated from executive functions, the present Cantonment Magistrate should be the executive and lands officer, and the entire judicial work should be carried out by the district civil staff, either by transferring the additional work to any of the present magistrates or by the creation of a new appointment of a magistrate to take over the judicial duties.

7. *Safeguarding Cantonment Magistrates' Department.*—As this change materially affects the present officers of the Cantonment Magistrates' Department and their conditions of service, it is recommended that they should be safeguarded either by adequate financial compensation or by raising the pay in the proposed new appointments in order to be attractive. (*Paragraph 11.*)

8. *Creation of a Lands Branch, Government of India.*—There should be a proper land record of rights for all cantonments in India and Burma. It was essential that there should be statutory power to enforce registration on the same lines as those in force in the Punjab for mutations which provide for light and suitable fine. (*Paragraph 12.*)

The Committee not knowing the details of the proposals for the Lands Branch are unable to express any opinion as to its desirability or otherwise.

9. *Appeals from executive orders.*—On principle there should be an appeal to the next higher military authority from an order passed by a subordinate authority.

As regards appeals under section 216 of the Cantonment Code, an appeal should lie, ordinarily, to the General Officer Commanding the District, and if the latter officer passed the order of expulsion, an appeal should lie to the General Officer Commanding-in-Chief of the Command. Should the latter officer have passed the order of expulsion, an appeal should lie to the Governor-General in Council. The non-official members recommend the alternative of a judicial enquiry by the District Magistrate with an appeal to the Sessions Judge, if section 216 is to be retained. They are strongly opposed, however, to the retention of section 216. (*Paragraph 13.*)

As regards appeals by dismissed servants of the Board, there was divided opinion. The official members advocated a final appeal to the General Officer Commanding the District, whereas the non-official members desired to keep the present right of appeal to the Governor-General in Council. It was subsequently recommended that an appeal should, ordinarily, lie to the General Officer Commanding the District, but if the latter officer was the President of the Cantonment Board, an appeal should lie to the General Officer Commanding-in-Chief of the Command, and if the dismissed servant was drawing a salary of Rs. 100 or more, an appeal should lie to the next higher military authority. A servant dismissed according to the limitation prescribed by the Secretary of the Cantonment Board should have a right of appeal to the Cantonment Board. (*Paragraph 13.*)

There should be an appeal against an order passed under sections 85, 99 (1), and 181 (1) of the Code to the General Officer Commanding the District. (*Paragraph 13.*)

As regards appeals under sections 92 (1) and (2), 95, 96, 97 and 215 (3) of the Code, the non-official members recommended that the District Magistrate should be the appellate authority. The official members advocated the retention of the present provision in Schedule V. (*Paragraph 13.*)

The principle of allowing an appellant the right to appear by counsel was accepted but nothing was recommended in view of certain difficulties arising in permitting such procedure before General Officers Commanding. (*Paragraph 13.*)

10. *Expulsion of persons under sections 215, 216, Cantonment Code.*—Recommended retention of existing statutory power of expulsion within regimental lines and bazaars situated within regimental lines.

As regards areas outside regimental lines and bazaars situated within regimental lines, expulsion was recommended with the exception of one dissentient (the Hon'ble Khan Bahadur Haroon Jaffer), only on certain modified lines as detailed on page 7, and then only on condition that the offence for which expulsion is ordered in one which is restricted to the tampering with the loyalty and discipline of troops or some similar definition as suggested on page 8.

There was divided opinion on the question of whether the person affected should be turned out before or after the judicial enquiry by the District Magistrate. The official members recommended that he should be expelled prior to the judicial enquiry whereas the non-official members recommended that the order of expulsion should take effect after the judicial enquiry.

The Hon'ble Khan Bahadur Haroon Jaffer recommended the entire deletion of section 216. (*Paragraph 14.*)

## CANTONMENT LAWS AND REGULATIONS.

*General Remarks.*

11. Recommended that, on principle, there should be no executive directions issued by Army Headquarters or any military authority which involve the extended application of existing law.

If any amendment is required, it should be done in the proper orthodox manner and sanctioned by competent legal authority empowered to frame laws.

Recommended cancellation of Army Regulations, India, Volume II, Appendix IV, as it has no force of law, neither have instructions in the Cantonment Manual regarding leases, sites and their sub-division, etc. (*Paragraphs 16 and 18.*)

*The Cantonments (House Accommodation) Act, 1902.*

12. The House Accommodation Act should be revised to provide for the intention of the preamble, namely, the better provision of house accommodation for military officers in cantonments.

The difficulty of having the House Accommodation Act brought into force should be remedied by the issue of instructions by the Imperial Government to all Local Governments to give the object of the Act their primary consideration and to view all applications for extension of the Act in the light of the difficulties experienced in securing houses for officers. (*Paragraph 17.*)

13. Recommended that the proper authority for purposes of the House Accommodation Act is the General Officer Commanding the Area and not the Cantonment Authority.

14. Recommended that Government should either (a) requisition houses for military officers on long repairing leases of not less than five years, or (b) purchase the required number of houses if owners are willing to sell. (*Paragraph 20.*)

15. Recommended that in all tenancy suitable protection should be afforded to the owners' gardens and fruit trees, any loss being compensated for. (*Paragraph 21.*)

16. Recommended that existing civil offices or buildings occupied as civil offices in future should be exempted from the operation of compulsory requisition either by the tenant or by Government. (*Paragraph 22.*)

17. The existing statutory protection of house owners under section 11 (c) of the Act should not be disturbed. If the house changes hands by alienation, transfer, sale, etc., the new owner should not be given the right to enjoy this privilege. The old owner should, on the other hand, be compensated by Government.

In the event of death of present owner, his heirs or successors should inherit the privilege of protection if the deceased had one house, but if the deceased owned several houses, this right should be applicable to only one of the houses and not to all. (*Paragraph 23.*)

Government should, in the meantime, have authentic lists prepared of (a) houses which are subject to the right of requisition by Government under section 6 (b), houses which cannot be touched under section 11 (c) or 11 (a), and (c) houses liable to alienation under the protection afforded.

18. In the case of repairs required to any house, the money should be advanced by Government to the Military Works Services or Public Works Department, so as to admit of no delay, and the cost recovered thereafter by Government from the owner by attaching the rent, provided that such recovery should not exceed one half of the monthly rent, per mensem, and provided that Government should be entitled to receive on the loan an interest amounting to  $6\frac{1}{2}$  per cent. per annum. (*Paragraph 24.*)

19. The owners of house property in cantonments should be given equal consideration with the tenant, and he should be given the option, in matters of dispute, of (a) demanding reference to a Standing Committee of Arbitration, (b) demanding that Government should take his house on a long repairing lease for not less than five years, and (c) demanding that Government should purchase his house.

Government should be under an obligation to accede to one of these demands. (Paragraph 25.)

20. Recommended that the whole chapter dealing with Arbitration Committees should be recast in the manner laid down in detail. (Paragraph 26.)

21. Recommended certain principles for assessing rentals of houses for observance by Standing Committees of Arbitration. (Paragraph 27.)

22. Recognised that rentals of houses were far below those obtaining anywhere else; and that wherever registered rents existed in cantonments they should be revised immediately to accord with the present market value of buildings. In cantonments where the House Accommodation Act is not in force, there is no reason against owners putting up their house rents. (Paragraph 27.)

### THE CANTONMENTS ACT, 1910.

#### *General Remarks.*

23. Recognised that only a few changes were necessary. (Paragraph 28.)

24. Recommended the alteration of section 4 of the Act to conform to proposed new administration. (Paragraph 28.)

25. Recommended that much of the Cantonments Act and Code could be amalgamated into one Act. Details given. (Paragraph 28.)

26. Taxation should only be introduced on the recommendation of the Cantonment Board. (Paragraph 29.)

27. Recommended that all references to the police force employed in cantonments should be omitted from the Act and Code. (Paragraph 30.)

28. The existing statutory provisions of section 21, relating to the vesting and management of the Cantonment Fund, should stand. (Paragraph 31.)

29. That only those enactments should be applied to cantonments as are in force in the Province of the Local Government in which a cantonment or part of it lies. (Paragraph 32.)

30. Recommended that owners living outside the cantonment but close to, or in the vicinity of it, should be exempted from having to appoint agents. (Paragraph 33.)

31. Recommended that all draft rules for amendment to existing laws relating to cantonments should be widely circulated among the inhabitants of the cantonment. (Paragraph 34.)

32. Imprisonment as a form of punishment should be eliminated altogether except for certain offences. (Paragraph 35.)

33. Imprisonment should, on the other hand, be enhanced for certain graver offences. (Paragraph 35.)

34. Recommended the retention of existing provisions giving protection to certain officials charged with responsibility of administration. (Paragraph 36.)

### THE CANTONMENT CODE, 1912.

#### *General Remarks.*

35. Drastic revision recommended: Portions which should be omitted, portions which should be embodied in the Act, and portions which should be embodied in a Cantonment Account Code. (Paragraphs 37 and 45.)

36. Definitions which should be altered and added. (Paragraph 37.)

37. Recommended that, though Mr. Craik's Committee removed all quasi-judicial powers from the Cantonment Board and assigned them to the Cantonment Magistrate, the functions of the Cantonment Board should be the same as are now discharged by the Cantonment Authority. (Paragraph 38.)

38. Recommended identically the same number of members constituting the Cantonment Board as are provided under existing statute, with the addition that there should be half elected members. (*Paragraph 39.*)

39. The position and functions of the President, Cantonment Board, should not, in any way, be altered. (*Paragraph 40.*)

40. The number of authorities exercising powers of control are excessive and should be reduced to two, namely, the District Commander and the Local Government. (*Paragraph 41.*)

41. Cantonment servants drawing under Rs. 25 a month can be dismissed or appointed by the Secretary. Those drawing above Rs. 25 should be appointed or dismissed by the Cantonment Board. (Dissented to by Lieutenant-Colonel Lawrenson, Cantonment Magistrate's Department who joined Committee as member.) (*Paragraph 42.*)

42. All cantonment servants drawing Rs. 50 or more should be liable to transfer within the district, and outside the district only at their own request. (*Paragraph 42.*)

43. The term of imprisonment awardable under section 23 of the Code for sweepers absconding should be reduced to 14 days or to a fine of Rs. 25. (*Paragraph 43.*)

44. Recommended that the Cantonment Fund should not be applied to defray the cost of lighting, watering, and cleansing of the streets situated in regimental or departmental lines or leading to such areas, or leading to an arsenal, fort, barracks, godowns, regimental bakeries, etc., the upkeep of which should be defrayed by the State. (*Paragraph 44.*)

45. As regards education, it was recommended that a minimum proportion of the Cantonment Fund should be spent on education, such proportion being that which obtains in adjoining municipalities of the Province. The exact proportion should be left to Cantonment Authorities to decide. (*Paragraph 44.*)

46. Recommended that the Cantonment Fund should be relieved at a very early date of all charges connected with the conservancy of Indian troops, and of public and private followers residing in regimental or departmental lines, as the charge is an illogical and unfair one. (*Paragraph 44.*)

47. Recommended that section 29, sub-section (2), should be omitted. (*Paragraph 44.*)

48. Recommended that either sections 60 and 61 of the Code, or Home Department Resolution 713—34 of the 2nd June 1913, or both, should be amended so as to cover the question of all contracts and leases in the case of the various kinds of lands in cantonments. (*Paragraph 46.*)

49. Recommended that existing rules in the Cantonment Manual relating to the execution of leases for a sub-division of, or extension of, present sites in cantonments be deleted as it involves the extended application of law. Leases should not be executed for a sub-division of an existing site. It is only necessary where an owner of an existing site desires to extend the site and thereby takes in new land, and then only for the extended site.

50. Recommended that where it is necessary to fill up a tank, excavation, or marshy ground, under the provisions of section 82 which is of long standing, the cost should, ordinarily, devolve on the Cantonment Fund. (*Paragraph 47.*)

51. Recommended that there should be an elected member of the Cantonment Board in addition to the Civil Surgeon on all special Committees convened under section 83 of the Code. (*Paragraph 49.*)

52. As regards temporary occupation of land, it was recommended that section 112 should be amplified to exempt from its operation certain matters pertaining to troops and others, and to provide for the imposition of a fee or ground rent. (*Paragraph 50.*)

53. Recommended, with regard to dilapidated buildings, that section 85 should be revised to provide that Cantonment Authorities can enforce repair or

alteration thereto, and that military authorities can resume sites, if they so desire, on payment of compensation and after giving reasonable notice for repair. (Paragraph 51.)

54. Recommended that the authority to sanction the cutting or lopping of trees should be the Cantonment Authority subject to the control of the General Officer Commanding the District and not the Commander-in-Chief in India. (Paragraph 52.)

55. As regards the notice to restore the land to its former condition, it should be issued by the Cantonment Board and not the Secretary. (Paragraph 53.)

56. Section 137 should be amended to provide that cattle can be driven and meat can be carried through cantonment limits for sale or consumption elsewhere. (Paragraph 54.)

57. Chapter VIII should be recast to provide for all penalty clauses being embodied in one section at the end of the chapter. (Paragraph 55.)

58. Recommended that section 172 should now provide for the levy of a license fee, but only in cantonments where there is no tax on trades and professions already in force. (Paragraph 56.)

59. Certain chapters and sections as detailed in the report should be embodied in one general chapter on bye-laws, and that the Cantonments Act should be amended so as to give wider powers to Cantonment Authorities to frame bye-laws. (Paragraph 57.)

60. Recommended that section 179 should be amended to provide punishment for those prostitutes who live outside cantonment limits but frequent cantonments for the purpose of prostitution. (Paragraph 58.)

61. No changes are necessary in sections 184, 185 relating to the procedure for requiring the names of dairymen and washermen. (Paragraph 59.)

62. In emergent cases under section 192 for the prevention of the spread of infectious and contagious disease, the President of the Cantonment Board should have the legal power to order the destruction of any infected hut or shed. (Paragraph 60.)

63. The cost of providing temporary shelter under section 193 should be debited to the Cantonment Fund and provision made either in this or in section 29 for such expenditure. (Paragraph 61.)

64. Recommended the elimination of District Magistrate in section 199. (Paragraph 62.)

65. The Medical Officer or Health Officer in charge of the Cantonment Hospital or Dispensary should be appointed by the Cantonment Board and not by the Local Government, which latter should be deleted from the Code. There should also be a provision made legalising the payment of allowances to Health or Medical Officers from the Cantonment Fund. (Paragraph 63.)

66. Neither the Medical or Health Officer nor any of his subordinates of the Cantonment Hospital or Dispensary should be allowed to take fees for professional attendance on poor patients who come to the hospital for treatment. (Paragraph 64.)

67. The present power of expulsion given under section 208 to Medical Officers in charge of Cantonment Hospitals and Dispensaries should not be used against respectable persons receiving proper medical aid and living in circumstances not involving any danger to the public. (Paragraph 65.)

68. That the present procedure whereby the Commanding Officer of a cantonment is empowered to expel persons on the recommendation of the Medical or Health Officer in charge of a Cantonment Hospital or Dispensary should be left to stand as it is. The suggestion to transfer this power to the Cantonment Magistrate is not agreed to. (Paragraph 65.)

69. That sections 213 and 214 should be transferred to and embodied in section 67 of the Code. (Paragraph 66.)



70. The present punishment provided in section 214 seems inadequate and it should be enhanced to a fine of Rs. 200 or to one month's imprisonment. (Paragraph 66.)

71. Recommended that the punishment prescribed in sections 215, 216 and 217 should also be enhanced to a fine of Rs. 200 or to one month's imprisonment. (Paragraph 67.)

72. Section 219, sub-sections (1) and (2), regarding extension of Acts appear superfluous and should be deleted. Sub-section (3), however, should be retained. (Paragraph 68.)

73. The Code should give to Cantonment Authorities the power of framing rules for grazing and for the control of animals permitted to graze on Government land, and should provide a penalty of rupees fifty for a breach of any of such rules. This should be embodied in the general chapter on bye-laws. (Paragraph 69.)

74. As regards inspection and search, the Cantonment Board and the Health Officer should have independent powers as already provided for the Cantonment Magistrate. Recommended that the list of matters for which entry and search are specified should be curtailed and simplified. (Paragraph 71.)

75. Recommended that sections 78 clause (e) and 85 should be omitted from the category of cases in which action cannot be suspended pending an appeal. Recommended that sections 215 and 216 should stand in this category. (Paragraph 72.)

76. Committees of Arbitration should now be called "Standing Committees of Arbitration" and that it should be revised to accord with the constitution and powers of such Committees as proposed in the House Accommodation Act. (Paragraph 73.)

77. The whole of Chapters XXI and XXII should be entirely recast to provide for better registration and a penalty for disobedience. (Paragraph 74.)

78. The reference to Governor-General in Council in sections 281 and 282 should be omitted. Section 282 should be deleted from the Code. (Paragraph 75.)

79. Constitution of Sub-Committees should follow the constitution of Cantonment Boards as regards elected members and their proportion. (Paragraph 75.)

80. Imprisonment generally as a form of punishment should be deleted from the Code except for certain specified cases detailed in report. (Paragraph 76.)

81. Section 290 should be re-enacted in its original form, or the whole of section 81 of the Punjab Municipal Act should be applied to all cantonments to provide that all moneys claimable by the Cantonment Authority can be recovered by application to a Magistrate. (Paragraph 77.)

82. A penalty clause of fine not exceeding Rs. 10 should be provided for section 291. (Paragraph 78.)

83. Schedule IV should be amended to provide for the case of persons rescuing animals being taken to the pound. (Paragraph 79.)

84. Schedule V should provide for appeals by dismissed servants of the Board as proposed. (Paragraph 79.)

85. In the concluding remarks, it is recommended that a small committee of officials and non-officials should go round visiting each cantonment to see in which excision was possible. (Paragraph 80.)

86. All notice forms in use in cantonment offices should be scrutinised and amended so as not to give offence. (Paragraph 80.)

87. As regards immediate action by Government, it was recommended that those of our proposals which can be given effect to should not be delayed. There were others which required careful examination and reference to the Secretary of State. (Paragraph 80.)





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**ANNEXURE I.**

**Regrouping of principles recommended by Mr. Craik's Committee and Mr. Renouf's Committee and the All India Cantonments Association.**

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*Not printed.*

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**ANNEXURE II.**

**Proceedings of Mr. Craik's Departmental Committee dealing with the revision of  
Cantonment Law and Administration.**

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Cantonments.  
Regulations.

No. 33209-1 (Q. M. G.-4).

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

*Simla, the 9th October 1920.*

To

THE QUARTERMASTER-GENERAL IN INDIA.

SIR,

I am directed to inform you that the Government of India have decided to appoint a Committee to enquire into, and make recommendations to this Department, in regard to the development of Cantonments and their administration on the lines of the Reforms Scheme.

2. The Committee will consist of the following :—

*President :*

H. D. CRAIK, Esq., I.C.S.

*Members :*

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E., Director of Movements and Quarters.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., Cantonment Magistrates' Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E., Assistant Adjutant General.

*Secretary.*

Major J. K. KNOWLES, Indian Army, Cantonment Magistrates' Department.

5. The terms of reference for the consideration of the Committee are attached.

I am, Sir,

Your most obedient servant,

(Sd.) A. SHAIRP, Colonel,

Offg. Secretary to the Government of India.

(Enclosure to Army Department letter No. 33209-1 (Q.M.G.-A), dated the 9th October 1920.)

To consider the following and make any recommendation necessary :—

- (a) Any alteration in the constitution and form of the Cantonment Authorities and the local civil and military authorities as may be necessary and practicable to bring the administration of cantonments into harmony with present day conditions.
- (b) The possibility of separating the Sadar Bazaar from the rest of Cantonments and placing the bazaar under civil administration, with questions of cantonment revenue involved.
- (c) Whether the whole, or any part, of the Cantonments Act and Code and the House Accommodation Act should be revised, especially with reference to the disabilities that these statutes impose on both landlords and tenants and the good administration of available accommodation.
- (d) Any further points which may appear to call for remarks in course of their investigations.



*Proceedings of Mr. Craik's Departmental Committee dealing with the revision of cantonment law and administration.*

PART I.

The Committee met on Monday the 11th October 1920 at Army Headquarters.

*Present :—*

H. D. CRAIK, Esq., I.C.S., *President.*

BRIG.-GENL. J. CHARTERIS, C.M.G., D.S.O., R.E.

LIEUT.-COLONEL J. W. HARLEY LYON, I.A., C. M.'s Department.

LIEUT.-COLONEL H. R. NEVILL, O.B.E.,

MAJOR J. K. KNOWLES, I.A., C. M.'s Department.

1. The Committee first discussed paragraph (b) of the terms of reference.  
*viz. :—*

“ the possibility of separating the Sadar Bazaar from the purely military areas in cantonments.”

Reference has been made to all Divisional Commanders on this subject and pending receipt of their replies it is not possible for the Committee to consider in detail the case of each cantonment. The Committee are, however, disposed to think that there are the following objections of principle to any general separation of cantonment areas into (a) civil and (b) purely military areas :—

- (i) The health and discipline of the troops must be the first consideration in cantonment administration, and it is obvious that these interests would be gravely affected if we create in (or close to) military lines, areas which would not be under any sort of military control. If the area occupied by the civil population inside cantonments were made into separate municipalities, or joined to existing municipalities, the authority administering sanitation and conservancy in such areas would be practically independent of military control, and, moreover, in the future would be likely to resent any interference either by the local military authorities or by the local civil officials. There would thus be every probability of friction between the cantonment authorities and municipal authority. It would, for example, be practically impossible for the military authorities to put pressure on the municipal committee to close drinking shops or disorderly houses which might be a menace to the health and discipline of the troops.
- (ii) It might then become necessary to place such purely civil areas out of bounds for the troops and this would involve a great reduction of the area available for exercise and amusement. Such a measure would obviously be very unpopular with the troops.
- (iii) There would be grave danger of collision between the troops and the municipal police.

In addition to the above objections of principle, the following points must not be overlooked :—

- (iv) Such separation would necessarily involve a large sacrifice of revenue from taxation, and would thus throw a heavy additional burden for the maintenance and sanitation of cantonments on the military estimates. By far the greater part of the income from taxation is realised from that part of all cantonments occupied by the civil population.

- (v) Such separation would involve relinquishment by the military authorities of the ownership of large areas of very valuable land, which are at present producing a substantial income.

The Committee, therefore, consider that it is highly inadvisable to accept the principle that all Sadar Bazaars should become separate municipalities.

At the same time, the Committee recognize that certain Sadar Bazaars have grown into cities far larger than is actually necessary for the requirements of cantonments, including all military considerations. The Committee are of opinion that in such cases the question is one that must be considered for each cantonment in consultation with the Local Government concerned, the general object being to divide the cantonment into :—

- (a) Sadar Bazaar proper, which should remain under military control, of such a size as is actually required for convenience of the troops in the cantonment, and
- (b) The remaining area of the present bazaar, which should form a separate municipality.

A division of this nature must, of course, be subject always to the essential requirements of the health, welfare and discipline of the troops in the cantonment.

2. As regards paragraph (a) of the terms of reference, the Committee accepted the general principle that it is necessary to liberalise the form of administration in cantonments by introducing an elected element into the cantonment committee. They are inclined to think that in first class cantonments 33 per cent. of the cantonment committee should be elected, in second class 25 per cent. and in third class cantonments 20 per cent. These percentages, which are purely tentative, should include a certain proportion of members elected by the house-owners in the cantonment as distinct from the rest of the civil population. Local Governments have been asked to submit, in consultation with the local military authorities, detailed proposals for the constitution of the cantonment committee in each cantonment within their jurisdiction and the Committee will not be in a position to formulate a comprehensive scheme for the introduction of the elective principle till their replies have been received.

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3. As regards the franchise, the Committee think that it should, so far as possible, be similar to the franchise in the nearest large municipality. This is a matter on which Local Governments must be consulted.

4. The Committee are of opinion that there is considerable force in the representation made by the All India Cantonments Association against the existing practice whereby the Cantonment Magistrate is, in many cases, both the prosecutor and the judge. In their opinion, the Cantonment Magistrate should exercise no judicial powers in cases in which the Cantonment Magistrate or Cantonment Authority acts in the capacity of prosecutor, or in "warrant cases" triable under the Penal Code or local or special laws, which would otherwise be tried by a magistrate of the first class on the district staff.

5. The Committee are of opinion that Schedule V of Chapter XIX of the Cantonment Code regarding appeals from executive orders by the Cantonment Magistrate, or Cantonment Authority, requires amendment. They think there should be an appeal from the General Officer Commanding the District to the Command in cases where the General Officer Commanding the District himself passed the order appealed against. If the General Officer Commanding the Command should, by any chance, have himself passed the order appealed against, then he should refer the appeal to higher authority for disposal or transfer.

6. As regards paragraph (c) of the terms of reference, the Cantonments Act and Code will obviously require amendment if effect is to be given to the recommendations made above. The question of amending the House Accommodation Act will be considered in detail at subsequent meetings.



7. General Charteris informed the Committee that, subject to financial considerations, it was the policy of the Quartermaster-General in India, when more accommodation for officers was likely to be required in any cantonment, for Government to build either hostels or quarters. The Committee are of opinion that, wherever possible, Government should take houses required for military purposes on long leases of not less than 5 years from the owners, in lieu of the present system under which the individual officer becomes the tenant. Government would be responsible for all repairs and if the houses remained unoccupied, the loss would fall on Government. The amount of rental would be fixed by a Standing Committee of Arbitration.

8. The House Accommodation Act will require amendment in order to give effect to the foregoing recommendation. The power to requisition houses on long lease for occupation by military officers should apply to all houses including those occupied by the owners, if the ownership has changed hands by purchase subsequent to the date of this amendment of the law. The Committee recognize that this proposal may have the effect of reducing the selling value of house property in cantonments, and on this account may be opposed by the All India Cantonments Association, but the Committee, nevertheless, hold that such rule is necessary. In certain cantonments, *e.g.*, Cawnpore and Lucknow, a number of houses are being acquired by business firms for their own occupation and this practice is making it extremely difficult for officers to secure houses. It also reduces the area available for building operations.

9. The Committee recognize that in many instances the request of the owner for the execution of a long lease will be due to the dissatisfaction of the tenant with the condition of the house. If this dissatisfaction is based on reasonable grounds, it is probable that the expense to the State of putting the house into a satisfactory condition will be considerable.

The question then arises whether the owner is to bear any part of this expense. It is certain that the standard required by the Military Works Services will tend to approach the general standard adopted for houses and quarters erected by Government. The rent recoverable by the Military Works Services is subject to a strict limit, and the probability is that if the old rent, less perhaps a small amount deducted on account of annual repairs, is secured to the owner, the charges to be met by Government will be excessive.

Unless the owner obtains a net income at least equal to that obtained hitherto, he will be dissatisfied with the lease; and in view of the fact that in many instances he has built the house at the direct request of the military authorities, his dissatisfaction will not be unreasonable. There is a general complaint that rents in cantonments are below the level obtaining in adjacent civil stations. The raising of rents in cantonments to the level of those in civil stations will inevitably bring the average rent above that recoverable under the 10 per cent. rule. Here again it seems certain that increased expenditure will be involved on the State, and this result must be appreciated.

The Committee desire to record their opinion that in the long run it would be more profitable for Government to purchase, or acquire by resumption, all houses in cantonments up to the minimum number required for constant occupation by officers.

The next meeting was fixed for 10-30 A. M. on Wednesday, 13th October.

## PART II.

*The Committee met on Wednesday the 13th October 1920 at Army Headquarters.*

### PRESENT.

H. D. CRAIK, Esq., I.C.S., *President.*

### *Members.*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M.'s Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s, Department.

The Committee proceeded to examine the House Accommodation Act (Act II of 1902) with the following objects :—

(a) to make it a more efficient instrument for providing accommodation for military officers.

(b) to meet, where possible, the objections of the All India Cantonments Association.

1. As regards the Preamble, the Committee do not think it desirable to extend the operation of the Act to houses already occupied as offices, or to houses that may be required in the future for office accommodation. The Committee nevertheless recognize the great difficulty felt in certain cantonments in securing office accommodation.

2. *Section 2 (2).*—Substitute “ Collector ” for “ District Magistrate ”.

3. *Sections 3, 4 and 5.*—The Committee recommend that these sections should remain.

4. *Section 6.*—It was considered that as the Cantonment Authority is to provide the agency for assessing the rental of houses, it should not be also the machinery for requisitioning houses ; the Committee recommend that the “ Officer Commanding the Area ” be substituted for “ Cantonment Authority ” and that a definition of “ Officer Commanding the Area ” be added in section 2.

For sub-paragraph (a) in section 6, the Committee recommend that the following be substituted—

“ (a) Require the owner to let the house on a repairing lease to Government for a period of not less than five years.”

5. *Section 7.*—The Committee recommend that the procedure contemplated in this section should not be used in the case of any house occupied by a military tenant who has taken the house direct from the landlord. If it is desired to utilize the procedure in such cases then, in the opinion of the Committee, the house should first be requisitioned by Government on long lease in the manner provided by section 6. After it has been so requisitioned, it will be for the Officer Commanding the Area to decide between the claims of officers desiring to occupy the house.

6. *Section 8.*—*Sub-section (1).*—The Committee recommend that this sub-section be repealed.

For sub-section (2), substitute a section on the following lines :—

“ The Officer Commanding the Area shall not issue the notice contemplated by section 6 unless he is satisfied :—

(a) to remain as at present.

(b) to remain as at present.

(c) omit, a separate section to be inserted to provide machinery for fixing the rental of houses.

(d) remains as at present.

Explanation I to be omitted.

Explanation II to remain as at present and become Explanation I.

7. *Section 9.*—The Committee recommend that this section be amended as follows :—

“ Every notice to an owner issued under section 6 shall state that the amount of annual rent will be fixed by a Standing Committee of Arbitration constituted as provided in Chapter IV of this Act.”

The next meeting was fixed for 10-30 A.M. on Friday, 15th October.

### PART III.

*The Committee met on Friday the 15th October 1920 at Army Headquarters.*

PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

*Members :*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M's Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M's Department.

Colonel Nevill informed the Committee that the Adjutant-General wished to draw attention to the great difficulty experienced by military officers in certain cantonments in obtaining suitable accommodation.

The difficulty arises mainly from a reluctance of certain Local Governments to apply the House Accommodation Act to cantonments, in part or in whole, when requested to do so, with the result that the primary object of a cantonment as a military reservation is in danger of being overlooked. The Committee consider that the remedy is to be found, not in making the Cantonments (House Accommodation) Act of universal application, but in the issue of directions from the Government of India to the Local Governments in question, pointing out the difficulties referred to and asking Local Governments to consider all applications for extension of the Act in the light of these difficulties.

The Committee then proceeded with their examination of the Act.

*Section 10 (1).—Add the word " office " after " shop " and the words " commercial firm or club " after " railway administration."*

[The word " club " should include a masonic lodge or a benefit society, and should be so defined in section 2 of the Act.]

" Officer Commanding the District " should be substituted for " General Officer Commanding the Division."

*Section 10.*—Sub-section (2) may be repealed and replaced by regulation or executive orders.

*Section 11 (a).*—Add the word " office " after " shop."

The Committee approve of the principle underlying this section, but consider that it requires redrafting to make it clearer that the occupation which cannot be disturbed must be as a hospital, bank, hotel, shop, office or school. As the section stands at present it might be read as if providing that *any* occupation would exempt the house from requisition under section 6.

*In sub-section (b).*—Add " commercial firm or club " after " railway administration."

*Sub-section (c).*—The Committee think that this sub-section requires amendment so as to apply only to owners in occupation prior to the amendment of this Act. Owners acquiring houses by purchase subsequent to such amendment should not be exempt from the operation of section 6.

*Sub-section (d).*—For " General Officer Commanding the Division " substitute " Officer Commanding the District."

*Section 12.*—Remains as it is, except that for the words “proposed tenant” substitute “lessee” (*i.e.*, government).

*Section 13.*—For “proposed tenant” substitute “lessee” (*i.e.*, Government).

*Section 14 (1).*—The Committee think that this section should remain unaltered but recommend that it should be the general policy of Government, in cases where this section is operative, to purchase the house, whenever possible.

*Sub-section (2).*—For the words “a Committee of Arbitration” substitute “the Standing Committee of Arbitration constituted as provided in Chapter IV.”

*Section 15 (1).*—Remains unaltered, except that “District” should be substituted for “Division.”

*Sub-section (2).*—The meaning is obscure, and the Committee consider it would be clearer if the words “for the rent payable under this Act, or if no rent is so payable” were omitted. Government must rely on the words “in good faith” in the section to protect it from collusive or fraudulent leases.

*Sub-section (3).*—Remains unaltered.

*Sub-section (4).*—For “Cantonment Authority” substitute “Officer Commanding the Area,” and for “fifteen days” substitute “one month.”

*Section 16.*—The Committee consider that this section should be retained to cover the case of houses that are at present leased direct by the owner to military officers and that will continue to be so leased. This section will not apply to houses appropriated under the new section 6.

*Sub-section 16 (1) (a).*—Substitute “the Standing Committee of Arbitration as constituted under Chapter IV” for “a Committee of Arbitration.”

*(b) and (c).*—Remain unaltered.

*Sub-sections (2) and (3).*—Remain unaltered.

*Sub-section (4).*—This may be omitted from section 16 and a corresponding sub-section be inserted in section 12, providing that, in cases when the machinery of section 6 is employed and Government becomes the tenant, its tenancy shall be deemed to commence on the date on which the house is vacated.

The Committee adjourned till Saturday the 16th October at 10-30 A.M.

#### PART IV.

*The Committee met on Saturday the 16th of October 1920 at Army Headquarters.*

PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

*Members :*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M.'s Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s Department.

The Committee proceeded with its examination of the House Accommodation Act.

*Section 17.*—Insert the words “in writing” after “consent.”

*Section 18.*—The Committee recommend that the whole of this section should be repealed.

*Section 19 (1).*—It should be made clear that this and the three subsequent sections do not apply to houses appropriated under section 6, but only to houses leased direct by the owners to military officers. For the words "Cantonment Authority" substitute "Officer Commanding the Area."

*Section 19 (2).*—Substitute "Officer Commanding the Area" for "Commanding Officer of the Cantonment" and for the words "Committee of Arbitration" substitute "Standing Committee of Arbitration as constituted under Chapter IV."

*Section 20.*—Substitute "Officer Commanding the Area" for "Commanding Officer of the Cantonment" and for "Committee of Arbitration" substitute the words "Standing Committee of Arbitration as constituted under Chapter IV."

*Section 21.*—The same alteration as in section 20.

The Committee think that in any case of a dispute of the nature contemplated in sections 19, 20 and 21, the owner should have the option of either :—

- (a) demanding a reference to the Standing Committee of Arbitration, as provided in the existing Act, or
- (b) demanding that Government should take his house on a repairing lease for not less than five years or purchase it at a valuation to be determined by the Standing Committee of Arbitration, or
- (c) that the military tenant should vacate it.

Government would be compelled to comply with one of these three demands.

A new section to this effect might be inserted after section 21.

*Section 22.*—The Committee think that this section in its present form tends to be a hardship on the military tenant who may not be in a position to put down a lump sum for repairs. It should be amended so as to provide that the Military Works Services, or the Public Works Department, should execute and pay for the repairs; the Standing Committee of Arbitration should then decide during what period the rent payable by the tenant to the owner should be reduced so as to cover the cost of the repairs, the difference between the reduced and original rent for that period being payable by the tenant to the Military Works Services, or Public Works Department, as the case may be. *This section will not, of course, apply to houses requisitioned under the new section 6.*

*Section 23.*—Remains unaltered.

## CHAPTER IV.

### *Standing Committees of Arbitration.*

The Committee consider that sections 24, 25, 28, 29 and 33 should be repealed and that provisions on the following lines should be substituted.

The first section of Chapter IV should be as follows :—

"In every cantonment to which this Act has been applied there shall be appointed a Standing Committee of Arbitration which shall decide :—

- (a) In any case in which a house is requisitioned under section 6, the amount of annual rental payable to the owner. The rent so fixed shall be revised by the Standing Committee at the expiration of each period of five years from the commencement of the lease;
- (b) In every case in which a house is sold under the provisions of section 14, the amount of the purchase money;
- (c) On reference being made to it under section 19 (2), whether any repairs demanded by a tenant are or are not necessary and within what period such repairs are to be executed;

- (d) On reference being made to it under section 20 read with section 16 (1) (a), whether a house has or has not become unfit for occupation ;
- (e) On reference being made to it under section 21, the amount of rent payable by the tenant to the owner ;
- (f) In the event of any repairs to a house being executed by the Military Works Services, or Public Works Department, as provided in section 22, by what amount the rent payable by the tenant to the owner shall be reduced and for what period."

The second section of Chapter IV should run :—

" Every Standing Committee of Arbitration should consist of :—

- (a) a Chairman, who shall be the District Magistrate, or if the District Magistrate is unable to act on the Committee, some magistrate, being a Justice of the Peace or magistrate of the first class, and not being the Cantonment Magistrate, appointed by the District Magistrate to act in his stead ;
- (b) a member appointed by the Officer Commanding the Area ;
- (Note.—*This member should, whenever possible, be an Engineer officer.*)
- (c) two elected members of the Cantonment Authority chosen by all the elected members of that authority."

The third section of Chapter IV should be as follows :—

" The Chairman and at least two other members shall constitute a quorum for the disposal of business, provided that, if in the opinion of the Chairman, the disposal of business is being deliberately delayed by the failure or neglect of one or more members of the Committee to attend, the Chairman may nominate one or more members to act on the Committee at the meeting in question in place of the absent member or members."

*Section 26* of the present Act should be retained in the following form :—

" Where a requisition is made to the Officer Commanding the Area by the tenant of a house, being a military officer, under section 20 or section 21, the Officer Commanding the Area may refuse to refer the matter to the Standing Committee of Arbitration on the ground that the application therefor is groundless or frivolous.

*Section 27* should be amended as follows :—

- " (1) Where a reference is to be made to the Standing Committee of Arbitration, the Officer Commanding the Area shall cause an order to be published in Station Orders, stating the matter to be determined."
- " (2) The Cantonment Magistrate shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and shall also cause a copy of the order to be published on the notice-board at the Cantonment Magistrate's court house and on the notice-board at the District Magistrate's or Sub-Divisional Magistrate's court house, as the case may be. He shall also inform the Chairman and members of the Standing Committee of Arbitration of the matter referred to it, and the Committee shall meet as soon as may be thereafter."

With reference to section 29 (1) of the existing Act, the Committee consider that, in view of the proposed constitution of the Standing Committee, the disqualification of any member having a direct interest in the matter in dispute may be dispensed with. In actual practice all elected members of the Cantonment Authority will, as a rule, have a direct interest in matters referred to the Standing Committee.

*Section 30 (a)* should be retained in the following form :—

" The Standing Committee of Arbitration shall have power to receive evidence and to administer oaths to witnesses, and the Cantonment Magistrate shall issue the necessary processes for the attendance of

witnesses and the production of the documents required by the Standing Committee and may enforce the said processes as if they were processes of attendance before himself."

Provision should further be made entitling the owner or tenant to appear before the Standing Committee, either personally or by a representative, and to be heard. This is already provided for in rule 13 of the rules made under the existing Act, but the Committee think it would be better if a clause to this effect were included in the body of the statute.

*Section 31* should run :

"The Chairman of the Standing Committee of Arbitration shall fix the time and place of the meeting and shall have power to adjourn the meeting from time to time as may be necessary."

*Section 32* should be retained, with the insertion of the word "Standing" before "Committee," and should come after section 14. Reference to section 7 may be omitted.

*Section 33* will no longer be required and may be omitted.

*Section 34* should be amended as follows :—

"(1) The decision of every Standing Committee of Arbitration shall be in accordance with the majority of the votes of the members present at the meeting."

"(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail."

"(3) The decision of the Standing Committee of Arbitration shall be final, subject to the right of any party, dissatisfied with the decision of the Committee on a matter referred to it under section 24 (a) or (b), to apply to the Civil Court on the lines laid down in Part V of the Land Acquisition Act, 1894."

*Note.*—This sub-section (3) introduces a new principle, viz., the right of appeal in certain cases from the Standing Committee's decision to the civil courts. The Committee think this will be acceptable to house-owners generally. They do not think it necessary to provide for such an appeal in the case of matters referred to the Standing Committee under section 24 (c) (d), (e), or (f).

The Committee adjourned to Monday the 18th October 1920.

## PART V.

*The Committee met on Monday the 18th October 1920 at Army Headquarters.*

PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

*Members :*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C. M's Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M's Department.

*House Accommodation Act, Chapter V, Section 35 (1).*—*Substitute* "Officer Commanding the District" for "Officer Commanding the Division." The Committee recommend that in case the Officer Commanding the District is the authority for passing the original notice issued under section 6, an appeal should be allowed to the next higher authority.

*Section 35 (2)* remains unaltered.

*Section 36 (1)* remains unaltered.

*Section 36 (2).*—*Substitute* "Officer Commanding the Area" for "Cantonment Authority," and *substitute* "Officer Commanding the District," for "Officer Commanding the Division."



*Section 36 (3).*—The same changes.

*Section 37.*—*Substitute* “ Officer Commanding the District ” for “ Officer Commanding the Division. ”

*Section 38.*—The Committee think that this section might be repealed, as at present it gives the owner power of postponing action indefinitely. Under the new section 6, the Officer Commanding the Area will requisition a house for a term of not less than five years and will make Government liable for the rent for that period. It may be assumed that he will not issue a notice under this section without due care, and if the house is occupied, the occupier has 30 days to vacate. [See section 12(2).] (The draftsman should consider whether a clause is required providing that action on a notice shall not be postponed pending an appeal.)

*Note.*—The Committee notice that under the present Act, the owner whose house is let on a registered lease, can appeal only to the Officer Commanding the Division (*i.e.*, the District). That authority's sanction to the issue of the notice must have been obtained in advance, under section 15. The Committee, however, do not think that any amendment of the law is required.

## CHAPTER VI.

*Section 39 (1).*—*Substitute* “ Cantonment Magistrate ” for “ Cantonment Authority ” and for the words “ the rent payable by such officer under this Act ” *substitute* “ the rent payable by the tenant under this Act. ”

*Sections 39 (2), (3) and (4).*—For these sections *substitute* the following:—

“ The rent shall be paid to the owner by or under the orders of the Officer Commanding the Area on or before the 15th day of each calendar month. ”

*Section 40* remains unaltered.

*Section 41.*—Add—

(b) “ lay down the principles on which the Standing Committee of Arbitration shall determine the amount of annual rental in the case of houses requisitioned by Government on house repairing leases. ”

(c) “ prescribe a form or forms of repairing leases in the case of houses requisitioned by Government. ”

The present (b) will become (d).

*Section 42 (1).*—The Committee consider that previous publication of rules made under section 41 is unnecessary.

*Section 42 (2)* remains unaltered.

*Section 42 (3).*—*Substitute* “ Cantonment Magistrate ” for “ Cantonment Authority. ”

*Section 42 (4)* remains unaltered.

*Section 43* remains unaltered.

*Section 44* remains unaltered.

### *Rules made under the House Accommodation Act, 1902.*

*Rule 1* remains unaltered.

*Rule 2 (b).*—After the word “ newspaper ” *add* the words “ within the Command. ”

*Rules 3, 4, 5, 6 and 7* remain unaltered.

*Rule 8.*—The Committee think that the reference therein to Station Orders may be omitted.

*Rules 9, 10 and 11* remain unaltered.

*Rule 12.*—The Committee recommend that this Rule may be repealed as it is already provided for in the Act.

*Rule 13.*—The Committee think that this should be repealed and its place taken by a section in the Act.

*Rules 14 and 15* remain unaltered.

*Rule 16.*—Omit the reference to section 39 (4) which will be repealed.

*Rule 17* remains unaltered.

*Schedule A, Forms 1 and 2.*—These forms will require amendment so as to bring them into conformity with the Act as amended.

New rules will be required under section 41(b) and (c). In assessing the annual rental of houses requisitioned on repairing leases by Government, some general principles must be laid down, our object being to guarantee to the owner an equitable rate of interest on his capital, based on the rates returned by similar property in the neighbourhood. The framing of these rules and the drafting of a form of lease is a matter for experts.

The Committee adjourned to Wednesday the 20th of October 1920.

#### PART VI.

*The Committee met on Wednesday the 20th of October 1920 at Army Headquarters.*

PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

*Members :*

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M.'s Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s Department.

#### *The Cantonments Act, 1910.*

The Committee proceeded to examine the Cantonments Act, 1910, and were of opinion that very few changes were necessary.

*Section 15* should, in their opinion, be amended so as to provide that Local Governments can impose taxation only on the recommendation of the Cantonment Authority, on the analogy of taxation in municipalities.

*Section 19 (2).*—As the Cantonment Fund no longer contributes towards the maintenance of the police force employed in the cantonments all reference to this force should be omitted from the sub-section.

The Committee adjourned to Friday the 22nd October 1920.

#### PART VII.

*The Committee met on Friday the 22nd of October 1920 at Army Headquarters.*

PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

*Members :*

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M.'s Department,

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s Department.

The Committee re-considered and discussed certain questions regarding the House Accommodation Act arising from the proceedings of the Poona Conference

of the All India Cantonments Association. Certain alterations were found necessary and were accordingly embodied in Parts I, IV and V of their previous proceedings.

The Committee adjourned to Monday the 25th October to consider further principles involved in Colonel Nevill's Note.

#### PART VIII.

*The Committee met on Monday the 25th October 1920 at Army Headquarters.*

##### PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

##### Members :

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M's Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C. M's Department.

1. The Committee considered the proceedings of the recent meeting of the All India Cantonments Conference at Poona. They are inclined to accept the principle that service under a cantonment authority should either be pensionable or that a Provident Fund should always be established. At present there is a General Provident Fund for all cantonments from which cantonment servants drawing Rs. 10 per mensem or upwards benefit.

2. The Committee then considered and discussed a note\* prepared by Colonel Nevill. With reference to paragraph 9 of the note, they think it necessary to define the expression "actual military requirements." In their opinion the term should connote not only roads, gardens, recreation grounds, lighting and water supply, but grass and dairy farms, training grounds and all other areas, the retention of which may be desirable in the interests of the discipline, health and welfare of the troops.

3. Where these requirements have been satisfied, two alternative courses are possible :—

- (1) Excision of the area not wanted for actual military requirements in cases where the Sadar Bazaar is contiguous to, but not surrounded by, military areas.
- (2) In cases where the Bazaar is surrounded by military areas and where the incidence of taxation and its application to general cantonment purposes constitutes a real grievance, the non-military area might be administered separately out of the taxation arising therefrom as a "Notified Area" within the cantonment. In such cases the ultimate control should be vested in an official military majority on the "Notified Area Committee."

4. With regard to paragraph 11 of Colonel Nevill's note, the Committee accept the principle that a presumption of truth should attach to the record maintained of ownership of land in cantonments and that this record should have legal sanction. It also seems to the Committee desirable that there should be a central organization at Commands and at Army Headquarters which would be responsible for the supervision and management of lands owned by Government in the Army Department, both in cantonments and elsewhere. The Committee would be glad if a detailed scheme for such an organization could be prepared by the Quartermaster-general's Branch.

5. With reference to paragraph 12 of the note, the majority of the Committee entirely endorse the general proposition there laid down as regards the functions and position of the Cantonment Magistrate in relation to the civil district staff.

*Dissent.*

With this view Colonel Harley Lyon and Major Knowles disagree. Their dissent is attached, *vide* Appendices II and III to these proceedings.

6. With regard to paragraph 13 of the note, the Committee do not support the proposal to have a military officer as the appellate or revisional court over the cantonment magistrate. They would prefer to retain the District Magistrate or the Sessions Judge as the appellate or revisional court.

7. The Committee are not in favour of the alternative proposal put forward in paragraph 18 of the note.

8. The Committee discussed a proposal made by Colonel Harley Lyon that the cantonment magistrate should no longer be Secretary of the Cantonment Committee. The proposal was not approved by the majority of the members on the ground that it is most important, from the point of view of efficient administration generally and especially in matters of sanitation, that the cantonment magistrate should continue to be the chief executive officer of the Cantonment Committee. In large cantonments, where financial conditions make this possible, a paid Assistant Secretary might be employed.

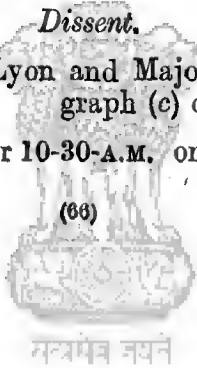
*Dissent.*

Here again Colonel Harley Lyon and Major Knowles disagreed, *vide* paragraph (c) of the note\* of dissent attached.

\*Appendix II.

The next meeting was fixed for 10-30-A.M. on Wednesday, the 3rd November 1920.

C56QMGB



## APPENDIX I.

*Note prepared by Lieutenant-Colonel H. R. Nevill, O.B.E.*

A cantonment is in its essence an area of land reserved for military requirements. It is intended to contain accommodation for troops, residential houses for officers, store houses, and offices for the various military services, ranges and parade grounds. Further, as the necessaries of life must be provided with the minimum of difficulty and as on sanitary and disciplinary grounds it is essential that the troops should be denied unrestricted access to the towns and cities of the country, provision has in all cases been made for the establishment of bazaars within the limits of the cantonments. These bazaars have been administered under a special code of rules and have been kept under strict control.

2. In theory therefore the cantonment is an enclave in a civil district, self-contained and in a varying degree self-supporting, the civil inhabitants being subject to taxation of a municipal character, the income of which is devoted to the maintenance of public services within the cantonment limits.

3. In practice, however, these conditions do not always obtain. Sometimes the original scheme has been lost to sight, but more frequently the cantonment has been subjected to gradual penetration by a population for which it was not intended. The size of the garrison has in many cases been reduced, with the result that the area has altered in character. In other cases the cantonment has grown in importance as a military station, with the result that the Sadar Bazaar has developed into a large town. In others, again, the civil and military stations have become inextricably intermingled. There are cantonments too in which large areas, once required for military purposes, have lapsed into cultivation, but are still available for a military purpose.

4. In all these widely varying conditions a uniform system of administration becomes almost impossible. A further complication arises from the fact that the more a cantonment has lost its original character, the larger is the income available from taxation. A cantonment which contains nothing more than essentials and a bazaar which is merely large enough to provide the necessaries required by the military population cannot pay its way. Amenities in the shape of roads, gardens, recreation grounds, lighting, water-supply and the like cost much and yield little. On the other hand, a crowded bazaar and numerous residential houses constitute valuable sources of income which can be and is devoted to military purposes.

5. If the view be accepted that a cantonment exists only for the sake of the troops and the military services concerned, it follows that these interests predominate over all others. If again the existence of a cantonment postulates a special system of administration, in order to secure military interests in the matter of health, good order and discipline, it equally follows that the cantonment should be restricted in extent to the area necessary to ensure these conditions:

6. This involves a re-examination of each individual area. The relinquishment of lands, the retention of which can no longer be justified on the score of military requirements, no doubt will result in the loss of revenues which have been treated as military but this is inevitable. In many cases extension of the cantonment area will be required, and for this purpose exchanges might be effected through the agency of the Local Government. The relative importance and the military population of many cantonments have changed, in some cases to a marked extent. Under the scheme propounded in the Esher Committee's Report, the barrack area will be almost doubled, and much land will be needed for the additional accommodation required for officers and married men. In several cantonments the congestion as regards houses is acute, and the value of the reservation will be impaired if the necessary additions are made at the expense of existing accommodation.

7. Areas which have been allowed to become to all intents and purposes civil in character should be removed. This is not always possible, as it would be objectionable to leave a civil enclave in the middle of a cantonment. Consequently each case must be treated on its merits. The large development of certain Sadar Bazaars has led to a position of great difficulty. These towns are in practice undeveloped municipalities within cantonments, subject to municipal taxation, the income from which is devoted in part only to municipal services, a large portion being expended on purely military objects outside the area occupied by the civil population.

8. It is possible to urge that every person who has settled within cantonment limits is aware that he has elected to reside in an area which from its very nature must be administered under military rules; but the practical application of this principle would be difficult. The cantonment was intended originally as a military reservation in which military considerations in the matter of administration alone would prevail; but in the course of time this principle has become obscured to a varying extent and the restoration of every cantonment to a condition in which the area to all intents and purposes is a military camp under military law would be hardly feasible.

9. Nevertheless the essential principle should be preserved to the fullest extent possible. If the area is restricted to actual military requirements, there will be no room for non-military occupation or enterprise. Where these have been already developed unduly, the situation must be faced and special arrangements must be devised for the administration of such areas, provided excision is impracticable. Either the area can be exploited for military purposes—a course which may be lawful but is probably inequitable—or else the civil area could be administered separately out of taxation arising therefrom as a notified area within the cantonment.

10. It is recognised that the restriction of every cantonment to the area actually required for military purposes would involve a loss of part of the income at present enjoyed, but were this determination of boundaries on the basis of essential requirements effected, the position would be unassailable. There is little justification for the retention of land acquired for military purposes and no longer needed or likely to be needed. The continued occupation of land now under cultivation within the limits of cantonments which have been partly abandoned, owing to the reduction in the garrison, is open to objection on the part of the Local Government, which is thereby deprived of its share in the land revenue of the area under regular cultivation.

11. Whether areas are modified or not, it is essential that all lands within cantonment limits should be brought on to a register and that a regular record of rights should be prepared. In many cases the title is obscure or worse, and in a matter of this nature no room should be left for doubt. The task of completing a settlement record would be light in many cases, but in some, owing to a policy of drift or to laxity of administration, the position is very unsatisfactory. The establishment of the rights of Government is even more important than the determination of the rights absolute or prescriptive, of individuals. It is an accepted principle that Government should have full powers of control and occupation within the cantonment limits, and these rights should be established beyond question. Only on this basis can the military authorities assert their claim to administer the whole cantonment area on military lines; and if the position is cleared, there can be no objection to the enforcement of the principle that military interests constitute the criterion of all action in the matter of military administration taken within the reserved area.

12. In order to emphasise the special conditions involved by residence within the military reservation, it appears desirable to delimitate the spheres of influence of the civil and military authorities. The existence of a cantonment cannot operate to interfere with the administration of the common law and therefore so far as this administration is concerned, there should be no distinction between the cantonment and the rest of the civil district. Consequently it is considered that in criminal matters the District Magistrate and the district police should have unrestricted control, but that the administration of special enactments and rules obtaining solely within the area by virtue of its character as a cantonment should rest with the military authorities. The effect of this would be to make the present cantonment magistrate not an additional magistrate on the district staff with a small sub-division in his charge, but a military staff officer with executive powers of administration and special magisterial powers within the cantonment for the enforcement of such laws as may apply to the cantonment alone, as distinct from the district generally.

13. If for administrative purposes the cantonment magistrate becomes the cantonment officer under the orders of the officer commanding the area, his military status becomes clear. His magisterial status, however, will require definition. In practice he will act as a court of summary jurisdiction, but even so provision will be needed for the exercise of revisional powers by a superior authority. If these powers be with the District Magistrate or the Sessions Judge, the present anomalous condition by which the cantonment magistrate has two masters will be perpetuated in some degree. This might be considered desirable on general grounds, but such a system would tend to obscure the main principle. As an alternative it might be preferable to have a senior staff officer at the headquarters of each Command, who would not only exercise supervision and control over the cantonment staff, but would also act as a court of appellate or revisional jurisdiction in cases dealt with by the cantonment staff officers under special enactments.

14. There would be incidental advantages in such a system. Apart from the expectation of promotion thus afforded, there would be a trained staff at Command headquarters dealing with this very important subject, and proper supervision of matters which in the past have suffered from neglect to the grave detriment of the interests of Government. At Army Headquarters there would be a co-ordinating directorate, under either the Quartermaster-General or the Secretary as might be more convenient.

15. This scheme would not involve expense in that the cantonment staff officer in the case of small cantonments could combine his executive duties with those of the Station Staff Officer, and if, as is proposed, the purely judicial work were transferred to the civil authorities, the number of cantonment magistrates could be reduced.

16. The present position is anomalous. Cantonments are, or should be, of a purely military character. They are in the administrative charge of magistrates who are soldiers by profession

but are treated as civilians and are appointed by the Local Government. It is one thing for the Local Government to invest a particular military officer with certain magisterial powers, but it is quite another matter for Local Governments to regard cantonment magistrates as subordinate members of the district magisterial staff. The very expression "Cantonment Magistrate" suggests a false appreciation of the position, and the departure from the original conception has been gradually accomplished during the long lapse of years. In the beginning there was a military provost establishment responsible for the good order of a cantonment. The magistrate for the cantonment was a civilian, and the transfer of magisterial powers to the military executive officer took place by degrees. A return to the old practice appears desirable, in order to restore the cantonment to its proper character as a military reservation containing such lands and houses as are required for military purposes, in which military considerations preponderate in all matters relating to the control and occupation of such area.

17. If therefore a cantonment is to be regarded, in the light of its original conception, as a military reservation, a standing and permanent camp, self-contained in all respects, it follows that in all matters of administration military considerations should prevail and that any non-military elements should be subordinated thereto. The present situation arises from the fact that such considerations have become obscured, and any failure to call a halt must lead to further confusion and to the rapid disappearance of those conditions which are essential.

18. An alternative suggestion, whereby the character of the cantonment should be modified in an important degree, is that the area should be regarded as a reservation for all purposes of Government; that is to say, that it should include the civil station to the extent of the requirements in the matter of accommodation for all Government officers. This would undoubtedly meet a great and growing need, but it would introduce complications in the matter of administration. The effect would be to regard all cantonments associated with civil stations as notified areas under a modified form of municipal administration in which military considerations would not necessarily be foremost at all times. The suggestion involves so many difficulties, particularly in the matter of dual control, that it is not likely to be welcomed by the military authorities who would prefer a clearly defined sphere of influence, in which military requirements form the ultimate basis of all decisions in administrative questions. From the military point of view it seems preferable that civil stations should be treated separately and be defined and regulated by the Local Government concerned in such a manner as to meet the civil requirements, without any attempt at the combination of elements which in many respects are essentially conflicting.

#### APPENDIX II.

##### *Note of dissent by Major J. K. Knowles, I.A., C.M.'s Department.*

From paragraph 12 of Colonel Nevill's note and Committee resolutions Nos. 5 and 8 referring thereto, I wish to record my dissent for the following reasons:—

- (a) The proposal and recommendation to make the Cantonment Magistrate a cantonment staff officer virtually means that in future he will be, in the essence of the term, in military employ. This is a wrong conception of his position. It entirely alters the origin of the department and the conditions of officer's service, and it affects very seriously the whole cadre.

For my authority I refer to I. A., clause 65 of 1895, also to the history of the department prior to 1864, to letter No. 875 (judicial), dated the 26th July 1893, to Government of India Resolution (judicial) of the 24th August 1903, to Government of India letter No. 1729-C. (judicial) of the 2nd July 1907 and to many others.

- (b) I pointed it out in my note of the 25th October which was placed before the Committee on that date. The Government of India and the Secretary of State have recognised and accepted the position that Cantonment Magistrates are in a special and separate department created for a special purpose, and that the department is civil and officers in the department are military officers in civil employ, and that after a certain number of years service in the department they cannot revert, even if they wished, to military employ. Cantonment Magistrates were special magistrates of a special area and they heard and disposed of all criminal and civil cases arising within their jurisdiction and were independent of the district staff. (See section XX of Act XXII of 1864.) This was their main and primary function. They were not executive officers. The only reason for making them executive officers subsequently (since 1865), was because they were in a position of magisterial authority and it was considered that they would be the only persons to enforce the observance of sanitary rules. It was not because they were trained executive officers. (See report of Committee of 1865.)

In view, therefore, of these reasons and statements of fact, Cantonment Magistrates, who have entered the department for a special kind of career, cannot revert to military duties as cantonment staff officers and have their main functions (*i.e.*, magisterial work) curtailed to permit him to assume duties of a military nature



which were never originally intended. If anything, his executive duties should be curtailed and given to a military officer in military employ, or to a health officer.

- (c) The origin and essence of his profession should be retained, acting otherwise would be to betray the whole cadre of officers. In my opinion, the functions and position of a cantonment magistrate have not been properly considered.

The Cantonment Magistrate should be still the sole magistrate of the cantonment with full and special powers, both criminal and civil, and independent of the district staff as it was before. The cantonment areas should be excluded from the district. (The Criminal Procedure Code would want slight amendment to provide for this.) The Cantonment Magistrate would then be virtually the District Magistrate, as Lord Curzon recognised, of the cantonment and he would be responsible for law and order among the civil population. His judgments and orders would be subject to appeal and revision by superior law courts as is the procedure now.

In addition to this (his legitimate duties), he might be charged in view of his authority with responsibility, of only general supervision and control over matters pertaining to health, sanitation, safety, convenience, and finance. Under him should be a secretary or health officer paid from local funds who would perform actual executive duties. In cantonments financially incapable of paying a secretary, a military officer should be deputed to carry out the actual work as was the custom prior to 1864 and which is even now the procedure adopted in certain small cantonments. The cantonment magistrate's relation to the local military authorities would be as "chief civil cantonment adviser." As such he should always, excepting in cantonments where there is a junior Cantonment Magistrate and part-time, be chairman of the cantonment committee with general controlling powers which are now practically embodied in the Cantonment Code. In the case of cantonments where only part-time officers are posted, the chair might be taken in order of seniority.

Such a measure would have the advantage of minimising to a great extent the grievance of the All India Cantonments Association that the Cantonment Magistrate is both secretary and judge. As president he would not occupy that invidious position. At the same time there is more likelihood that in that position, he could give the military authorities greater assistance. It would also remove the great difficulty now experienced of having repeatedly to change within the month the President who is a military officer and liable to leave the station at any time. Cheques have to be kept unsigned for undesirably long periods, and establishments kept waiting for pay.

As chairman, the Cantonment Magistrate would occupy a higher position of authority which would be more on a level with his high civil status of judicial officer. Obviously then he cannot be expected to remain, with any propriety, a subordinate to local civil and military authorities as exist now, a position, both degrading and humiliating, and one which is looked upon by the whole department with the utmost contempt and disapprobation.

- (d) The recommendation also affects, in my opinion, the administration. The two go together. To enforce a set of civil laws and regulations in cantonments based on lines obtaining in civil municipalities is virtually *municipal administration*. In no sense is it military. The work is purely civil in character and civil in essence. It would be more convenient, therefore, if the department were under the Civil Member or Secretary of the new Army Council.

### APPENDIX III.

#### *Note of dissent by Lieutenant-Colonel J.W. Harley Lyon, I.A., C.M.'s Department.*

I agree in the main with the note of dissent by Major Knowles; in my opinion, any alteration in the status of cantonment magistrates would constitute a breach of faith with officers of the department. It must be borne in mind that the original inception of a Cantonment Magistrate was that he should be a magisterial officer entirely and it was only subsequently that executive duties, such as sanitation, etc., were added. These extra duties were only added owing to the gradual growth of the civil population in cantonments.

It has been recognised for many years that a cantonment magistrate was a military officer in civil employ and it was for that reason, among others, that officers were induced to join the department. Further, it should be noted that in the conditions of service a cantonment magistrate is on the Supernumerary List and as such ceases, to all intents and purposes, to be a military officer except in name.

It is for the above reasons that I am opposed to the suggestions contained in paragraph 12 of Colonel Nevill's note.

## PART IX.

The Committee met on Wednesday, the 3rd November 1920, at Army Headquarters.

## PRESENT.

H. D. CRAIK, Esq., I.C.S., *President*.

*Members.*

Lieutenant Colonel J. W. HARLEY LYON, I.A., C.M.'s Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s Department.

It was proposed by Colonel Harley Lyon and Major Knowles that, in view of the new Command organization, and the recommendation that in future there should be an experienced staff officer at each Command headquarters as adviser on cantonment matters to the General Officer Commanding the Command, the powers conferred upon the Brigade (now Area) and Division (now District) by the Cantonment Code of 1912 should be transferred to the Command, and that the channel of communication in all matters pertaining to Cantonment administration should in future be from the Cantonment Committee to the Command direct. With this proposal the majority of the Committee disagreed as they considered that the general control conferred on General Officers Commanding Areas and Districts, by the existing Code should be retained.

2. The Committee then proceeded to examine the Cantonment Code of 1912.

An important point to remember in suggesting any amendment of a section in the existing Code is that the existing provisions are divided into two distinct parts, namely:—

*Rules* made by the Governor-General in Council under section 24 of the Cantonments Act. These can be revised in any way required, within reason, and provided the amended rule is still really a measure for the carrying out of the purposes of the Act.

*Enactments* extended to cantonments by the Governor-General in Council under section 23 of the Cantonments Act. These *cannot* be amended except in such a manner as will leave the original enactment intact, and changes must be legally valid restrictions or modifications, and nothing more, *vide* the wording of section 23 of the Cantonments Act.

## CHAPTER I.

In section 2 (1) (b) and throughout the Code *alter* the word "natives" to "Indians," and *substitute* for the words "the Officer Commanding the Division, in Divisional orders" the "competent military authority."

The Committee consider that the term "competent military authority" should be separately defined.

Section 2 (c) and (d) should accordingly be amended to suit the new military organization.

*Sub-section (h)* add "plague and influenza" after the word "fever."

*Sub-section (o)* may be omitted.

Section 2 (2). *Substitute* "Cantonment Magistrate" for "Cantonment Authority." The Committee think that the Cantonment Committee should not, as a general principle, exercise any judicial functions.

## CHAPTER II.

The majority of the Committee think that the following amendments should be made :—

*Section 3 (1).*—No change.

(a) *Substitute* “ Area, District or Command ” for “ Division or Brigade ” and “ competent military authority ” for “ Officer Commanding such Division or Brigade.”

(b) *Substitute* “ The District Magistrate, or in his absence a magistrate of the 1st Class appointed by the District Magistrate to represent him.”

*Omit* proviso to (b).

The present (c) will become (i).

(c) The Cantonment Magistrate.

(d) The Health Officer.

(e) The Executive Engineer.

(f) The Superintendent of Police or, in his absence, the Deputy Superintendent of Police.

(g) The Senior Executive Medical Officer in military employ on duty in the cantonment.

(h) The Medical Officer in charge of the Cantonment Hospital or Dispensary, *if a commissioned officer.*

(i) Such Commanding Officers of units or depots residing in the cantonment as may be appointed by competent military authority.

*Provided that* the total number of nominated members shall not exceed 10 in any cantonment.

(k) Such number of members, elected by the civil residents or house-owners in the cantonment, as may be determined by the Local Government.

*Provided that* the number of elected members shall not exceed 75 per cent. and not be less than 40 per cent. of the total number of nominated members.

*Note.*—The Code will require a new chapter laying down general principles for the holding of elections, the qualifications of candidates, etc. Detailed rules for each cantonment will have to be drawn up and notified in the official gazette of each Province. The Committee is not at present in a position to draw up such rules.

*Section 3 (2).*—The President of the Committee shall be the officer appointed under section 3 (1) (a) and the Cantonment Magistrate shall be Secretary.

*Section 3 (3).*—This point is being discussed in the Army Department. The Committee is not at present in a position to make any recommendation.

In keeping with their previous dissent in Part VIII, Lieutenant-Colonel Harley Lyon and Major Knowles disagreed as to the constitution of the Cantonment Committee in respect to the President and Cantonment Magistrate. In their opinion, the word “ combatant ” should be omitted, so as to remove the disability now existing whereby a Medical Officer or a Cantonment Magistrate is debarred from acting as Chairman of the Committee. One argument in favour of this view is the fact that a Cantonment Committee is a mixed civil council and is not a military committee. Colonel Harley Lyon and Major Knowles think that in cantonments in which there is a whole-time Cantonment Magistrate, there is no reason why he should not be President of the Cantonment Committee in view of his civil status and experience and his seniority, in many instances, to the Officer Commanding the Cantonment. In cantonments in which only a part-time Cantonment Magistrate is stationed, the senior military officer in the station should preside.

With regard to section 3 (2), they consider that the Cantonment Magistrate should not be Secretary. If he is President he could not be Secretary, and if he is not President he should either be a member, or Vice-President, with general powers of supervision and control. In their opinion there should be a secretary paid from the Cantonment fund, or, as an alternative, a military officer (in preference the Health Officer) deputed to perform the duties. They also consider that there is no necessity now for the Superintendent of Police to be a member, as Cantonment Funds no longer contribute to the maintenance of the police force.

The rest of the Committee dissent from these views.

*Section 4.*—Omit.

*Sections 5 and 6.*—Superfluous—*vide* section 5 of the Cantonments Act.

*Section 7 (1).*—Insert “ ordinarily ” before “ meet ” and substitute “ or at such other intervals ” for “ and at such other times.”

*Sub-Sections (2) and (3).*—No change.

*Sub-Section (4).*—Omit the words “ unless a majority ” . . . . . down to . . . . . later meeting.”

*Sub-Section (5).*—No change.

*Section 8.*—No change.

*Section 9.*—Omit (a) and the five final words.

*Section 10 (2).*—Add “ and to the Officer Commanding Area.”

*Sections 11 and 12.*—No change.

*Section 13—16.*—Powers of control are now vested in an excessive number of authorities. It would, in the Committee's opinion, be sufficient to give the Officer Commanding the Area power to refer any question, on which he disagrees with the decision of the Cantonment Committee, to the Officer Commanding the District or the Command, as the case may be, and the Officer Commanding the District or Command could then, by order in writing, order the suspension of action for such period as may be stated in his order. If the District Magistrate disagreed with any decision of a Cantonment Committee as being prejudicial to public health, safety, or convenience, he could represent the matter to the Local Government. The Local Government would thereupon call the attention of the Officer Commanding the District or the Command to the matter. In urgent cases where the public safety is concerned, the Local Government should retain the power to suspend action on the Committee's decision.

With this exception, the right to modify or cancel any decision of the Cantonment Committee should be vested only in the Officer Commanding the District or the Command, as the case may be. It is not necessary to give the Local Government power to modify or cancel a decision. The Local Government's power to refer to the Officer Commanding the District should ordinarily be sufficient.

It will, however, be necessary to define in the Code the functions and duties of the Cantonment Committee. These should be purely executive and any judicial or magisterial functions assigned to them by the existing Code should be abrogated.

*Section 14 (1).*—Substitute “ competent military authority ” for “ Officer Commanding, Brigade.” Retain (a), (b), (c) and (d). In (d) omit the words “ other than one . . . . . ” down to . . . . . “ Section 13, sub-section (2).”

*Section 14 (2).*—Omit.

The Committee adjourned to the 4th November.

## PART X.

The Committee met on Thursday the 4th November 1920 at Army Headquarters.

### PRESENT.

H. D. CRAIK, Esq., I.C.S., *President.*

### Members :

Brigadier-General J. CHARTERIS, C.M.G., D.S.O., R.E.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M's Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M's Department.

1. The Committee proceeded with their examination of the Cantonment Code.

## CHAPTER III.

*Section 17 (1).*—The majority of the Committee, accepting the principles laid down in paragraphs 1—5 of the Cantonment Manual, page 1, would retain section 17 (1) which defines the position of the Cantonment Magistrate *vis-à-vis* the Cantonment Committee.

*Section 17 (2)* is liable to misinterpretation and has been misinterpreted in the past. The Committee regard it as superfluous.

*Section 17 (3) and (4).*—May be omitted as superfluous.

*Note.*—General Charteris brought to the notice of the Committee the anomalous position whereby the military authorities cannot get rid of, or transfer, a Cantonment Magistrate without the consent of the Local Government. The Cantonment Magistrate's tenure of appointment is at present governed by civil rules and after he has been in the department for ten years, he is placed on the supernumerary list and cannot be reverted to regimental duty. The majority of the Committee consider that in future the position of the Cantonment Magistrate should be that of a soldier exercising certain administrative functions of a civil or quasi-civil nature, under the control and supervision of the local military authorities, and that he should be liable under ordinary military rules to removal or reversion to regimental duty for inefficiency. The Committee recognise that this change may prejudicially affect the position of the Cantonment Magistrate's Department, and would propose to compensate for this (a) by raising the pay of the Department to such a scale as will ensure that suitable officers are attracted to it; and (b) by providing certain well-paid appointments for officers of the Department at Army Headquarters and at Command Headquarters.

To this principle and to that stated under section 17 (1), Cantonment Code, both Colonel Harley Lyon and Major Knowles dissent.\* (*Minutes of dissent attached.*)  
\* *Vide* appendices I and II.

*Section 18 (1).*—Amend to “subject to the control of the Officer Commanding the District, the Cantonment Committee shall fix the number and salaries of the servants to be employed by it.”

*Section 18 (2).*—Omit “sanction and”

Omit proviso as unnecessary.

*Section 19.*—For “instituted,” substitute “directed.”

*Section 20.*—No change.

*Section 21.*—Omit the exception added by Army Department Notification No. 282 of 28th March 1913. The Committee do not think that the conservancy establishments of Indian units should be servants of the Cantonment Committee or be paid for out of the Cantonment Fund.

*Section 22.*—No change.

*Section 23 (1).*—No change.

*Section 23 (2).*—A very drastic sub-section, but the Committee recognise that in view of the primary importance of the health of the troops, it must be retained. They would, however, add the option of a fine not exceeding Rs. 50.

*Section 23 (3).*—Omit and substitute “menial servant” for “sweeper.”

For the explanation a definition of “menial servant” should be substituted.

*Sections 24, 25 and 26.*—No change.

*Section 26-A.*—The Finance Department should consider whether:—

(a) it should not be obligatory for all Cantonment Committees to establish a provident fund;

(b) it would not be more economical to have one provident fund for all cantonments instead of a separate fund for each cantonment.

The Committee adjourned to the 5th November 1920.

## APPENDIX I.

*Minute of dissent by Major J. K. Knowles, I.A., C.M.*

The resolution of the majority of the Committee under section 17 (1); chapter III, and the acceptance by them of the proposal made by General Charteris in the subsequent note thereto, involves most important principles connected with the administration and with the Cantonment Magistrates' Department. To both of these principles I disagree for the following reasons :

2. The recommendation is based on the old conception, which has repeatedly been discussed before and decided by the Government of India and Secretary of State to the contrary, that the administration is military and that officers of the Cantonment Magistrates' Department are in military employ. This principle touches the very foundation of the question.

3. We have abundant proof that the administration is *civil* in essence and that officers of the Cantonment Magistrates' Department are in *permanent civil employ*. The administration as it now exists is divided into two heads :—

(1) Magisterial or Judicial.

(2) Executive.

Take the first. The judicial administration is vested in the Cantonment Magistrate. The appointment of a Cantonment Magistrate is compulsory under section 4 of the Cantonments Act of 1910. Owing to the presence in cantonments of a large civil population, which in many stations far exceeds the strength of the garrison, it has been found necessary to govern them by a set of civil laws and regulations. These laws are contained in the Cantonments Act and Cantonment Code and in special enactments that have been extended to cantonment areas. The Cantonment Magistrate is empowered to enforce these laws. In this judicial work the military authorities are not concerned because it is in no sense military. It appertains to the *civil provincial Government* and the Government of India in the Home Department.

The judicial side is, therefore, unquestionably civil.

Take next the executive side. This duty, I have pointed out in my dissent attached to Part VIII, in paragraph (b), was given to the Cantonment Magistrate in addition to his *main and primary work of a judicial officer* because of his magisterial authority and for no other reason. His judicial work was pre-eminent and came before his executive duties. (See Act XXII of 1864.) The executive work consists of administering sanitation, conservancy, taxation, water supply, etc., as far as it affects the civil community, all of which are analogous to that existing in civil municipalities.

The administration is conducted as follows :—

The Cantonment Magistrate is there to enforce rules made under the local civil laws appertaining to this work. Apart from him, there is a local body composed of a mixed council of officials and non-officials, known as the Cantonment Committee who are charged with legal responsibility of administration. This Committee is a local civil authority and *not military* and their responsibilities and powers are civil *not military*. Then come certain military officials who have controlling powers and they exercise these powers only in a civil and *not military* capacity. The whole administration, both judicial and executive, is therefore civil from beginning to end and it is illogical to lay down any other interpretation. In support of these views, I refer to the file on the transfer of the administration to the Education Department, in which these principles have been recognised and accepted by the Commander-in-Chief and Quartermaster-General in India. Many other files and records furnish us with evidence stronger, if possible, than the above reference.

4. The majority of the members have endorsed the policy laid down in paragraphs 1—5, page 1, of the Cantonment Manual as being a correct interpretation of what the functions of a Cantonment Magistrate, of a Cantonment Committee, should be with reference to section 17 (1), Cantonment Code. The inference to be drawn from this is exactly what I have alluded to in paragraph 2 above of this dissent. The Committee's wish is, virtually, to turn the entire machinery into military because of the origin and meaning of a cantonment. In other words, there should be no civil administration but that civil inhabitants should be governed by a strict military rule. I cannot see any reason or advantage for advancing such a principle. Such a policy confessedly violates all fundamental laws of British justice and administration. So long as a large civil community is residing within cantonment limits, they must always be governed by the ordinary civil laws of the country. And what is the fear if they are subject to such laws? The idea seems to prevail that the existence of a civil administration is going to ruin the cantonment and take away from its character and original *raison d'être*. It is not understood how this is likely to come about. The mere fact that the administration is civil cannot in any way, now or hereafter, affect the original character or purpose of a cantonment. The military

authorities have owned and will always own the land; and barrack areas occupied by troops and followers will still continue under military rule and discipline. A cantonment must always remain as long as an army exists in India, for the residence of troops, and neither their welfare nor health is likely to be undermined by an administration which is civil in origin and civil in essence and only applicable to the civil community living in the cantonment.

Abundant safeguard is provided for under existing procedure. The military, acting in their civil capacity, are pre-eminent on Committees and have vast powers of control, and you have in the Cantonment Magistrate a military officer *in permanent civil employ* trained and experienced in both administrations, rendering it very unlikely that his influence will prejudicially affect military interests. The danger does not seem apparent, and if there is ever any likelihood of affairs materialising for the worst in the future, the safeguard is to retain the military majority and enhance the controlling powers of a Cantonment Magistrate. This can be best effected by excluding the cantonment area from the rest of the District, so as to permit the Cantonment Magistrate to have the full powers of a District Magistrate responsible only to the Local Government for law and order. I have pointed this out emphatically in my note of the 25th October.

5. With reference to the recommendations to turn the Cantonment Magistrates' Department into a purely military department under military control and management, I have only to refer to my dissent and to that of Colonel Harley Lyon, attached to the proceedings of October 25th—Part VIII. The reasons against such action are fully given in it. The origin and *raison d'être* of the department cannot be altered. Officers in the department selected to enter it as their career under certain conditions of service, and to act otherwise would be a breach of faith and against the policy laid down by the Government of India and the Secretary of State. Past files and records will show conclusively the reasons for creating a special department. Officers performing the duties of a Cantonment Magistrate were formerly in military employ and were liable to revert to military duty at any time, but both the Commander-in-Chief (Lord Roberts) and the civil authorities had one and the same objection to this system. The Commander-in-Chief alleged that the military officer lost all his training and became inefficient during the period he was performing civil functions, while, on the other hand, the civil authorities protested that the military officer could not become efficient and experienced in civil administration if he was not permanently in civil employ. These opposite views led to a decision that officers must be permanently deputed for the work and that they should be military officers in *permanent civil employ*. (See Government of India, Home Department, Nos. 1507—1521, dated 24th August 1903.) Officers belonging to the cadre are, and have been since, in permanent civil employ. Moreover, I fail to see how the present administration of cantonments is likely to improve by changing their conditions and placing these officers in military employ subject to military rules and regulations. There appears to be no argument in favour of such a change. The civil status and position of a Cantonment Magistrate has in no way damaged the efficiency of administration. Rather than doing good, or affording attraction to the department, the proposal is likely, in my opinion, to check voluntary recruitment and to disturb a system admittedly the best submitted for solution. The better way, obviously, is to recognise the civil status of the department and to improve it as such. To do that, the first thing is to raise the pay and official position of the officers, and transfer the department to its right and proper place under the Civil Member of the New Army Council, or Education Department. Cantonment Magistrates are, under present conditions, subordinate to local civil and military officers in a cantonment, a position to which they have the greatest aversion.

By removing the subordination and creating the better position I feel assured of a better class of officers coming into the department and that it will tend to make the administration an efficient instrument for ensuring protection of military interests.

## APPENDIX II.

### *Minute of dissent by Lieutenant-Colonel J. W. Harley Lyon, I.A., C.M.'s Department.*

My note of dissent recorded in Part VIII of the Committee's proceedings applies in this instance.

I feel I am voicing the wishes of the majority of officers in the Cantonment Magistrates' Department in maintaining that their position and status is, and should remain, civil and not military.



## PART XI.

The Committee met on Friday the 5th November 1920, at Army Headquarters.

## PRESENT.

H. D. CRAIK, ESQ., I.C.S., *President.*

*Members :*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C.M.'s Department.

Lieutenant-Colonel H. R. NEVILL, O.B.E.

Major J. K. KNOWLES, I.A., C.M.'s Department.

The Committee proceeded with their examination of the Cantonment Code.

## CHAPTER IV.

*Section 27.*—No change.

*Section 28.*—Should be in the Manual, not in a Code.

*Section 29 (a), (b), (c) and (d).*—No change.

*Section 29 (e).*—This is very vague. The words "owned or acquired for the purpose of carrying out any of the duties imposed by this Code or by the Cantonment Committee" might be added.

*Section 29 (f) (ii).*—This has given rise to some confusion in the past, but the Committee think that the Code, as it now stands, makes expenditure on the lighting, watering and cleansing of all streets a legitimate charge against the Cantonment Fund, and they think this should be maintained, and the sub-section requires no alteration. But if the Cantonment Fund does in fact light, cleanse, and water streets maintained for purely military purposes (*e.g.*, a road leading to a fort, arsenal, barracks, or Supply and Transport godowns), then the grant-in-aid to the Cantonment Fund should be increased proportionately, or a grant should be made by the Department concerned.

*Section 29 (g), (h), and (i).*—No change.

*Section 29 (j).*—As a matter of practice the only "classes of troops for whom conservancy is provided from public revenues" are British troops. In the opinion of the Committee this is illogical; it is the duty of Government to provide conservancy for all classes of troops, units, and formations, in a cantonment.

*Section 29 (k), (l), (m), (n) and (o).*—No change.

*Section 29 (p).*—Remains unaltered.

*Section 29 (2).*—This merely repeats section 19 (2) of the Act and is therefore superfluous.

*Sections 30 and 31.*—No change except "District" for "Division."

*Section 32.*—For (3) and (4) substitute—

(3) "The Officer Commanding the Area shall scrutinize the budget estimate and submit it to the Officer Commanding the District."

(4) "The Officer Commanding the District may sanction the budget estimate with or without modification."

*Section 33.*—In (1) (b), omit words "with the previous sanction" ..... down to ..... "as the case may be" and omit "or from one major head to another."

(2) "A copy of every order made under sub-section (1) (b) shall be sent by the Cantonment Magistrate to the Officer Commanding the Area."

The proviso is redundant and should be omitted.

*Sections 34 and 35.*—No change.

*Section 36 (2).*—The Cantonment Magistrate should have authority to sign all cheques as a matter of convenience, as the President is often absent from the station.

*Note.*—Much of the Chapter IV might, in the opinion of the Committee, be removed from the Code and put in a Chapter of the new Cantonment Account Code, when prepared.

*Section 59.*—May be omitted altogether—*vide* proposed amendment of section 15 of the Cantonments Act, 1910. (Proceedings of 20th October 1920.)

#### CHAPTER V.

Major Knowles raised the question whether this chapter, read with Home Department Resolution No. 713-34, dated 2nd June 1913, sufficiently provided for the case of all contracts made by the Cantonment authority, *e.g.*, those relating to lands outside the Cantonment placed under the management of the Cantonment Committee. Another point is that the Home Department resolution does not specifically refer to section 60 of the Code, and therefore covers the case of all contracts relating to Government land within cantonments, whether made by the Cantonment Authority or by a military department in occupation of the land. The result is that the resolution directs that the Secretary of the Cantonment Committee can alone execute contracts for such lands, even though the lands be not under the management of the Cantonment Committee.

The question whether section 60 of the Code or the Home Department resolution, or both, require amendment is one that should be referred for the advice of the Legislative Department.

*Section 63.*—The Secretary's power may be raised to Rs. 500 and the proviso may be omitted.

#### CHAPTER VI.

*Section 67 (1) (a) (xi).*—Substitute "Magistrate" for "Authority."

*Section 67 (1) (b), (f) and (i).*—Substitute "Magistrate" for "Authority."

*Section 68 (3) (a).*—Omit the words "destroy or"

*Section 73, proviso.*—Substitute "Cantonment Magistrate" for "Officer Commanding the Division."

*Section 74.*—Should be omitted from the Code and published as a bye-law.

The Committee adjourned indefinitely in view of the Army Headquarters offices moving to Delhi.

#### PART XII.

The Committee met on Tuesday, the 14th December 1920, in Delhi to complete their investigations into the remaining chapters of the Cantonment Code of 1921.

#### PRESENT :

H. D. CRAIK, Esq., I.C.S., *President.*

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C. M's Department.

Major J. K. KNOWLES, I.A., C. M's Department.

#### CHAPTER VI—*contd.*

*Sections 75 and 76.*—Might well be omitted. If retained, substitute "Magistrate" for "Authority."

*Section 77.*—The substance of this section might stand but it is for the draftsman to consider how best to shorten and simplify its provisions.

*Section 78.*—Substitute “Magistrate” for “Authority” where it first occurs.

*Section 79.*—Substitute “Magistrate” for “Authority.”

*Sections, 80, 80-A. & 80-B.*—No change advocated.

*Section 81.*—Substitute “Magistrate” for “Authority.”

*Section 82.*—Substitute “Magistrate” for “Authority.”—In the opinion of the Committee it is a wrong principle to allow the cost of carrying out sanitary measures in private compounds or lands to be debited to Cantonment Funds. It is recommended that the proviso be cancelled.

*Section 83.*—The only change suggested here is in the constitution of the special committee. The Committee think that there should be an elected member of the Cantonment Committee in place of the Civil Surgeon.

*Section 84.*—Substitute “Magistrate” for “Authority.”

*Section 85.*—This section seems to have been the subject of much controversy in the law courts. It has been ruled by a High Court that a building need not necessarily be insanitary by reason of its ill construction or dilapidation. In actual practice, moreover, the section serves no useful purpose. In most, if not in all, cantonments, bazaar buildings are occasionally found in a ruinous state, e.g., a broken-down mud wall, the removal of which is the only possible remedy. The present section gives no power to direct removal. The Committee consider that the section should contain a provision for the removal of such dilapidated buildings, when necessary for reasons of health, on payment to the owner of compensation. In lieu of the present section, they think two separate sections are required :—

(a) to enable Cantonment Authorities to enforce repair or alteration to dilapidated buildings, whether situated within or without bazaar limits; and (b) to enable the Military Authorities as owners of the land, to resume sites occupied by ruined buildings, wherever situated, on payment of compensation.

*Sections 86 and 87.*—Might stand.

#### CHAPTER VII.

*Section 88.*—Might stand.

*Section 89.*—The power of permitting temporary occupation of land might, in the opinion of the Committee, rest with the Cantonment Magistrate as he is the officer authorised under Chapter V to execute contracts and leases.

*Section 90.*—Might stand.

*Section 90 (2).*—In actual practice this section has been found useless in view of the fact that the offender can never be found. The remedy would appear to be to hold the owner or occupier of the building liable for the absence, destruction, or defacement of any name or number affixed to the building.

*Sections 91 and 92.*—Might remain.

*Sections 93 (1) and (2).*—Might stand, but there appears to be no penalty provided for a breach of section 93 (1). Section 172 of the Punjab Municipal Act (Act III of 1911), from which this section is taken, does provide a penalty. It is recommended that a penalty clause be introduced in section 107 of the Code.

*Section 93 (3).*—Might stand.

*Section 94.*—Substitute “Magistrate” for “Authority.”

*Section 95.*—No change.

*Sections 96 and 97.*—Substitute “Magistrate” for “Authority.”

*Sections 98, 99 and 100.*—Might stand.

*Section 101.*—The power here vested in the Commander-in-Chief seems unnecessary. In the opinion of the Committee the Cantonment Committee is the

proper authority to decide such matters, subject to the previous sanction of the Officer Commanding the Area, the object of reference to a higher authority being to prevent erratic action on the part of the local authority.

*Section 102 (1) and (2).*—Substitute “Magistrate” for “Authority.”

*Section 103 (a) and (b).*—Substitute “Magistrate” for “Authority.” The transference of power here to the Cantonment Magistrate is recommended as he is usually an officer with some knowledge of arboriculture and he has already power to order the cutting and trimming of hedges and the lopping of branches, etc.

*Sections 104 (1) (a) to (c), 104 (2) and 105.*—No change.

*Section 106.*—Substitute “Magistrate” for “Authority.”

*Sections 107 and 107-A.*—Might stand, except that a penalty should be prescribed for a breach of section 89 by a person occupying land for temporary use *without permission*. Provision should also be made for a penalty under section 90 (2) in the case of the owner or occupier failing to have a proper name and number affixed to his house, or if a name or number is so affixed, allowing it to become obliterated or illegible.

#### CHAPTER VIII.

*Sections 108, 109 and 110 (1) and (2).*—No change advocated.

*Section 111.*—It is for the draftsman to consider whether the Act of 1867 might not be repealed.

*Section 112.*—This section requires to be amplified and made clearer to provide for the following matters :—

- (a) Exemption from its provisions of sites where tents are pitched for soldiers, segregation camps, etc., and also sites occupied by subordinate officials of military departments.
- (b) The imposition of a fee on the same lines as in section 89, in return for conservancy services.

The Committee are further of opinion that the Cantonment Magistrate should have power to select the site, grant permission for occupation, and determine the amount of the fee.

*Section 113.*—Might stand. Section 273, Indian Penal Code, seems wider in terms, but offences under it cannot be tried summarily.

*Section 114 (1).*—Substitute “Magistrate” for “Authority.”

*Section 114 (2).*—Remains.

*Section 115.*—The Committee think that this section might be omitted and its provisions be embodied in Chapter XVII, sections 235 and 236.

*Sections 116, 117 and 118.*—No change.

*Section 119 (1).*—Substitute “Magistrate” for “Authority.”

*Section 119 (2) and (3).*—No change. The Committee consider that the Cantonment Committee should decide, after the Cantonment Magistrate has completed preliminaries, whether a licence is to be given.

*Section 120 (a), (b), (c) and (d).*—Might be omitted. These duties imposed on an owner of a private market could more conveniently be included in the conditions of his licence under section 173 of the Code.

*Section 121 (1).*—For the words “sections 114 and 120” in the second line, substitute the words “section 114 or any conditions of his licence under section 173.”

*Section 121 (2) and (3).*—Might remain.

*Section 122.*—Omit. This appears to be a matter of office routine work.

*Sections 123, 124 (1).*—No change.

*Section 124 (2) (i).*—The reference to the District Magistrate is unnecessary and might be omitted.

*Section 124 (2) (ii) and (iii)*—Remains.

*Section 124 (3)*.—Repeal. The Committee think that fees should be charged for licenses on the same lines as in section 129.

*Sections 125 (1) and (3) and 126*—Might stand.

*Section 127*.—Substitute “Magistrate” for “Authority”.

*Section 128*.—No change.

*Section 129*.—The Committee are of opinion that these conditions might more conveniently be embodied in the conditions of license under section 173.

*Section 130*.—No change.

*Section 131 (1)*.—Substitute “Magistrate” for “Authority”.

*Section 131 (2) and (3)*.—No change. In the opinion of the Committee the Cantonment Authority should retain the power to close slaughter houses.

*Section 132 (a) to (f)*.—These conditions might be more conveniently embodied in the conditions of licenses under section 173.

*Section 133 (1) and (2)*.—No change.

*Section 134 (a), (b) and (c)*.—This would appear to be a matter of routine work and might be omitted from the Code.

*Sections 135 to 136-A*.—No change.

*Section 137 (1)*.—Substitute “Magistrate” for “Authority”. The Committee consider that this section should not apply to cattle driven or meat carried through a cantonment for sale or consumption elsewhere, and that this exception should be made clear in the explanation.

*Section 137 (2) and (3)*.—Might stand.

*Explanation*.—No change.

#### *General Observations.*

The Committee would like to point out here that the penalty section in this part of Chapter VIII are widely distributed and it is difficult to discover what is the penalty for any particular breach. They think that the penalties prescribed in sections 121, 123, 125, 131 (3), 133, 135 and 137 (3), might be combined in a single section at the end of this part of the chapter after the explanation to section 137, for the sake of simplicity. This suggestion might be considered by the draftsman.

#### *Traffic.*

*Section 138*.—The Committee consider that the Cantonment Committee should be the authority to decide whether a street is to be closed or opened.

*Section 139*.—In the opinion of the Committee this section might well be omitted from the Code.

*Section 140*.—No change.

*Section 141*.—In the last line, omit the words “or by the District Superintendent of Police”. It was brought to the notice of the Committee that the section in its present form has sometimes led to the issue of conflicting orders.

*Sections 141-A and 142*.—No change.

*Section 143*.—The Committee recommend that this section be omitted from the Code as unnecessary.

*Section 144*.—No change.

*Section 145*.—Substitute “Magistrate” for “Authority”.

*Section 146*.—No change.

*Burial or burning grounds.*

*Section 147.*—Substitute “Magistrate” for “Authority”.

*Section 148.*—No change.

*Section 149 (1), (2) and (3).*—No change. The Committee agree that it is advisable to retain the power given to the Local Government by this section.

*Sections 150 to 171.*—No change.

## CHAPTER X.

*Section 172.*—The Committee observe that the levy of license fees in the Code of 1899 was found to be *ultra vires*, since it was not authorised under the Cantonments Act. A recent amendment to section 24, clause (20), of the Cantonments Act has now, however, legalised the levy of such fees, and the Committee recommend that provision be made in section 172 for the imposition of license fees in cantonments where no tax on trades and professions has been imposed under section 15 of the Act.

The Committee further recommend that the word “Magistrate” be substituted for “Authority,” as the person to renew licenses annually.

*Section 172 (g).*—Omit the last four words “used as human food”.

*Section 173.*—The question of embodying in the license a condition regarding the price at which articles are to be sold has often been raised. The Committee observe that the introduction of such a condition would present great practical difficulties.

*Section 174.*—This section appears to be of doubtful legality in view of the wording of section 24 of the Cantonments Act. The legality of section 173 was examined by the Legislative Department in September 1918, when it was held that the Cantonment Authority could not properly be empowered to fix the parts of a cantonment in which trade may be carried on. In the same way it is arguable that we cannot properly delegate to the Cantonment Authority power to make bye-laws under section 174. But see the footnote to Chapter I, Cantonment Code, page 83, where the legality of section 174 is discussed. On the question of policy, the Committee are of opinion that the Cantonment Authority should have a wide power to make bye-laws, and that a number of subjects now dealt with in the Code might be relegated to bye-laws, *e.g.*, the directions as to the provision of public latrines now dealt with in section 74. It is for the draftsman to consider how this can be done. Our suggestion is to have a general section, specifying the subjects on which bye-laws can be made, at the beginning of Chapter XXIII.

*Sections 175, 176, 177 and 178.*—No change.

*Section 179.*—It is noted that the provisions of this section have now been legalised by the recent amendment to section 24 (23), Cantonments Act, and that the power given to the Cantonment Authority is a very necessary one. As it stands, however, the section does not apply to prostitutes residing elsewhere but frequenting cantonments. It should be amended so as to cover such cases.

*Sections 180, 181 (1) and (2).*—No change.

## CHAPTER XI.

*Section 182.*—Substitute “Magistrate” for “Authority.”

*Section 183.*—Substitute “District” for “Division.”

*Section 184.*—This section, as it stands, unnecessarily hampers action as the Cantonment Magistrate cannot issue a notice until he receives a certificate by a medical practitioner. The wording, in our opinion, should read thus:—

“When it appears to the Cantonment Magistrate that the outbreak or spread of any infectious or contagious disorder is attributable to the milk, etc.”

*Section 185.*—The same remarks as for section 184.

*Sections 186, 187, 188, 189, 190 and 191.*—No change.

*Section 192.*—Substitute “Magistrate” for “Authority” except in the proviso.

*Section 193.*—Substitute “Magistrate” for “Authority” and add a provision legalising the payment from cantonment funds of sums required for providing temporary shelter. The auditors, it seems, have disputed the legality of such expenditure.

*Section 194.*—Substitute “Magistrate” for “Authority.”

*Section 195.*—Might stand.

*Section 196.*—Substitute “Magistrate” for “Authority.”

*Section 197.*—A sub-section should be added making punishable a breach of any of the provisions of sections 194 or 195 or 198, and the whole section should be transferred so as to follow section 200.

*Section 198.*—No change.

*Section 199.*—It seems unnecessary to introduce the District Magistrate in this section. It is for the draftsman to consider whether the provisions of this section could not be included in section 183.

*Sections 200 and 201.*—No change.

*Section 202.*—The reference here to the Local Government is unnecessary. Hospitals are maintained from Cantonment Funds and the Cantonment Authority should have the power to appoint its own Health Officer to be in charge of the hospital or dispensary. Moreover, the Medical Officer in charge receives an allowance from Cantonment Funds. We suggest that in place of the words “in such manner as the Local Government may direct,” the words “by the Cantonment Authority” should be substituted. The Committee also observe that no provision exists in the Code for the grant of an allowance to a Medical or Health Officer appointed by the Cantonment Authority. It is suggested that a clause to that effect should be inserted after section 202, unless section 19 (2) of the Act is sufficient authority.

*Sections 203 and 204.*—No change.

*Section 205.*—Might be omitted.

*Sections 206 and 207.*—No change.

*Section 208 and Explanation.*—No change.

*Section 209 (1).*—The Committee think that this section should be amended so as to empower the Cantonment Magistrate to commence legal proceedings on the receipt of the report of the medical officer and to pass the order of expulsion himself, an appeal to the District Magistrate being allowed in the same way that an appeal lies against an order under section 215 of the Code. It seems unnecessary for the Officer Commanding the Cantonment to be the authority for expelling persons under this section, as he has his general power of exclusion under section 216.

Section 209 (1) might run as follows :—

“On receipt of a report from the medical officer that any person has refused to obey a notice issued under section 208, or having attended at the hospital has quitted it without permission, the Cantonment Magistrate may, after making such enquiries as he thinks fit, by order in writing, direct such person to remove from the cantonment within twenty-four hours, and prohibit him from remaining longer in, or re-entering it, without his permission in writing.”

*Section 209 (2).*—No change beyond substituting “Cantonment Magistrate” for “Commanding Officer of the Cantonment.”

*Section 209 (3).*—Substitute “Cantonment Magistrate” for “Commanding Officer in that Cantonment.”



*Section 210.*—The Committee suggest that there should be a sub-section here providing a penalty for a breach of section 210.

*Section 211 (1).*—No change.

*Section 211 (2).*—Might be omitted from the Code as it appears to be an executive direction.

*Section 212.*—No change.

## CHAPTER XII.

*Section 213.*—This section should, in our opinion, be embodied in section 67 of the Code which provides for the punishment generally of all offences committed on roads and public places.

*Section 214.*—For the same reason this section might also be embodied in section 67 of the Code. Reports have been received from the Southern Command that the penalty provided in this section is in practice inadequate. Prostitutes can easily pay a fine of Rs. 50 and eight days' imprisonment has little deterrent effect. We agree that the punishment is too small for an offence of this kind as it is one which may affect the general health of the troops. We recommend that the penalty be raised to a fine of Rs. 200, or one month's imprisonment. It is observed, however, that any such enhancement of punishment would necessitate an amendment first of section 25 (4) of the Cantonments Act.

*Section 215 (1) (a) to (d) and (2).*—No change.

*Section 215 (3).*—In the opinion of the Committee the proceedings contemplated by this section are purely judicial and as an appeal to the District Magistrate is provided, there is no necessity to introduce the Commanding Officer of the Cantonment. The latter has his general power of exclusion under section 216. We think that the Cantonment Magistrate is the proper authority to commence legal proceedings and should pass the order of expulsion under section 215 himself. We, therefore, recommend that after the words "be prohibited from re-entering it" in the sixth line, the sub-section should run:—

"He shall issue a notice in writing requiring the person to remove from the cantonment within a time to be specified in the notice and prohibiting him from re-entering it without his permission in writing."

*Sections 216 (1), (2) and (3).*—This section gives a very necessary power to the Officer Commanding and we think that it should be retained, but we consider that no order should be made under section 216 unless and until the person affected has had an opportunity of showing cause against such order. Our recommendation in Part I of the proceedings refers to appeals which are dealt with in Schedule V of the Code, page 190.

In (2) and (3) substitute "General Officer Commanding-in-Chief of Commands" for "Commander-in-Chief," and "District" for "Division."

*Section 217.*—The penalty provided for in this section seems unduly light. We recommend that it should be enhanced to Rs. 200 or one month's imprisonment.

### *General Observations.*

The Committee are of opinion that the same enhanced penalty should be provided for expelled persons re-entering without permission, that is, for a breach of sections 215 and 216, which is punishable under section 288. This will necessitate an amendment of section 25 (4), Cantonments Act.

## CHAPTER XIII.

*Section 218.*—Might stand.

*Section 219 (1) and (2).*—The provisions of this section are probably unnecessary. In actual practice, if the extension of any enactment to a cantonment is

required, an application is submitted by the Cantonment Magistrate to the Local Government, who, if they consider its introduction is necessary, bring it into force. Sub-section (2) might be omitted. Sub-section (3) might stand.

*Section 220.*—Inadequate protection to trees and public property is afforded by this section. In actual practice, the Cantonment Committee frame their own rules for grazing and for the control of animals permitted to graze, but such rules are of doubtful legality. We suggest the insertion of a section empowering the Cantonment Authority to make bye-laws regulating the conditions under which grazing shall be permitted on land belonging to Government in a cantonment, and the control of animals permitted to graze on such land, and providing that any person contravening any such bye-laws shall be punishable with fine which may extend to fifty rupees.

*Section 221 (1) and (2).*—No change.

*Section 221 (3).*—In actual practice, this section is useless as a policeman is seldom present when his aid is required. We suggest that if such a course would be legal, the section should be amended by substituting "every person" for "every member of the police force employed in the cantonment."

*Section 222.*—No change.

#### CHAPTER XIV.

*Section 223 (1) and (2).*—Substitute "Magistrate" for "Authority."

*Section 224.*—Substitute "Magistrate" for "Authority" where the latter first occurs. The Cantonment Committee should be the authority for fixing the fees.

#### CHAPTER XV.

*Sections 226, 227, 228, 229 and 230.*—No change.

#### CHAPTER XVI.

*Sections 231 and 232.*—No change.

#### CHAPTER XVII.

*Section 233.*—No change.

*Sections 234, 235 and 236.*—The Committee think that the Health Officer and Cantonment Committee should have independent powers, but in their opinion these sections might, with advantage, be shortened and simplified. It is for the draftsman to consider whether it is necessary to specify all the objects for which the right of entry, etc., can be exercised. An alternative would appear to be to substitute a general phrase such as "for the purposes of this Code." The provisions of section 115 should be embodied in sections 235 and 236. This has been advocated in our recommendations under that section.

*Section 237.*—We recommend that the provisions of this section be embodied in sections 235 and 236.

*Section 238.*—Here again we think that the Cantonment Magistrate, or any person authorised by him, should be empowered to enter into or on any building or land, and that the provisions of this section might suitably be combined with the provisions of section 236.

*Sections 238, 239, 240, 241 and 242 (a).*—No change.

*Section 242 (b).*—Substitute "Cantonment Magistrate" for "Commanding Officer of the Cantonment" in both places where it occurs.

## CHAPTERS XVIII AND XIX.

*Sections 243, 244, 245, 246 and 247.*—No changes.

*Section 248 (1).*—We think that the present procedure for appeals by dismissed servants of the Cantonment Committee is unnecessarily long and tends to impair efficient administration. A servant who is dismissed by the Cantonment Magistrate has a right of appeal under Schedule V to the Cantonment Committee, and if dissatisfied, he has a right to appeal to the Officer Commanding the District. This ought to be sufficient. *The decision of the Officer Commanding the District should be final.* We are of opinion that there should be no right to apply for review to the Governor-General in Council by a dismissed servant, whatever his pay.

*Sections 248 (2) and (3).*—The recommendations in Part I, paragraph 5, of our proceedings with reference to appeals from Officers Commanding District to Commands and again from Commands to superior authority might be introduced here. The following sub-section is suggested:—

“248 (4).—When an appeal from an order of expulsion under section 216 of this Code is made to the Officer Commanding the District, and the Officer Commanding the District was himself the authority who passed the original order of expulsion, he shall refer the appeal to the General Officer Commanding-in-Chief the Command. Should the latter officer be the authority who made the original order of expulsion, he shall refer the appeal to the Governor-General in Council.”

We suggest the substitution of the Governor-General in Council here as we think that civil residents of cantonments would prefer that the final decision should rest with the highest civil authority.

*Section 249.*—No change.

## CHAPTER XX.

*General Observations.*—We consider that the whole of this chapter should be so amended as to bring it into line with the new provisions regarding Standing Committees of Arbitration which we propose should be inserted in the Cantonments (House Accommodation) Act. We also think that arbitration should be provided in regard to disputes arising under the proviso to section 92 (1) and the proviso to section 192.

## CHAPTERS XXI AND XXII.

*General Observations.*—These chapters deal with the procedure for the disposal of Government land, and for the registration of immovable property situated in cantonments. In view of the proposed establishment of a Lands Branch at Army Headquarters which will deal with matters pertaining to lands and immovable property, it is suggested that both these chapters might be suitably revised hereafter. But we are disposed to think that sections 261 and 262 should be retained; so also section 263, subject to decision hereafter as to who is to be the final authority for passing orders on applications for building sites. It should usually be the central authority at Command Headquarters. Section 264 requires detailed consideration, especially the explanation. We doubt if it need be included in the Code. Section 265 is an executive instruction and might, with advantage, be omitted. Chapter XXII should be recast entirely. To attempt further detailed revision of these chapters now would probably be a waste of time and labour. Once established, the Lands Branch will be in a position to frame rules for the disposal of all lands and for the registration of immovable property. These rules could then, if considered necessary, be re-introduced into the Code. It is, however, essential to note here that, when such rules are being framed, consideration should be given to the question of taking statutory power to compel persons owning property in cantonments to register it, and to provide the Cantonment Magistrate with more effective means than he has at present for:—

(a) enforcing registration.

- (b) preventing owners from selling, or transferring their interest in, house property or lands, after such sale or change of ownership has been vetoed by competent authority.

Acts of neglect or disobedience, giving false information, and so forth, should be made punishable.

### CHAPTER XXIII.

*Section 277.*—It is for consideration whether a good deal of the Code could not be relegated to bye-laws made under this section; *e.g.*, parts of Chapters VI, VII (especially sections 99—106) VIII, X and XI. For instance, the provisions of section 174 might be very conveniently put here. In the Punjab Municipal Act the matters dealt with under section 174 come under the general chapter on bye-laws.

*Sections 278, 279 and 280.*—No change.

*Sections 281, 282 and 283.*—The power of delegation conferred by these sections would appear to be *ultra vires* in view of the wording of section 24 of the Cantonments Act. The point is, however, one for the draftsman. The reference to the Governor-General in Council in sections 281 and 282 may be omitted if the Local Government is to be retained. We doubt if section 282 is necessary. Section 283 might prove useful in large cantonments.

*Sections 284—287.*—No change advocated.

*Section 288.*—Might stand. We have already recommended in our note on sections 214 and 215 that the penalty for a breach of the provisions of these sections should be enhanced to a fine of Rs. 200 and one month's imprisonment. This amendment might be effected by the addition of a new sub-section to section 288.

*Section 289.*—No change.

*Section 290.*—Cases have been recently reported from cantonments in which considerable difficulty has been experienced, under section 290 (5), as now amended, in the recovery of land rents, though there was no such difficulty under the old section. The amendment of 1918 to section 290 (5) limits the power of recovery to cases falling within sub-sections (1) to (3) of the section. The original section gave statutory power to recover all moneys claimable by the Cantonment Authority under the Code, power which was much wider and enabled the Cantonment Magistrate to recover land rents. The effect of the amendment has been to compel Cantonment Authorities to have recourse to civil courts for the recovery of its claims, a procedure which is both slow and expensive.

We think that either the section should be re-enacted in its original form or that the whole of section 81 of the Punjab Municipal Act should be extended to all cantonments.

*Section 291.*—We consider that provision should be made in this section for the punishment of any person using any weight or measure which does not tally with the standard weights and measures.

*Sections 292—297.*—No change.

*Section 298.*—Seems unnecessary and may be omitted.

*Schedule I.*—The forms require little or no alteration.

*Schedules II and III.*—No change.

*Schedule IV.*—We suggest the insertion in Part B of section 221 (3), so as to permit the arrest without warrant of persons who rescue, or attempt to rescue, animals being taken to the pound. The want of such a provision has been felt in many cantonments.

*Schedule V.*—We think little alteration is wanted in this Schedule. In section 216 substitute “General Officer Commanding-in-Chief the Command” for “Commander-in-Chief” and if the General Officer Commanding-in-Chief the Command is the authority who passed the original order of expulsion, the appellate authority would be the Governor-General in Council.

*Schedule VI.*—In view of the suggestions put forward in Chapters XXI and XXII, the lease forms may require alteration.



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## CANTONMENT CODE, APPENDIX I.

## PROVIDENT FUND RULES.

The following shall be substituted for the last clause of rule 3 :—

Every depositor shall be required to sign a declaration in the form attached to these rules shewing how he proposes to assign his deposit in the event of his death. If the depositor has a wife (not separated) and children, it shall be obligatory for him to nominate them as beneficiaries in preference to others.

Rule 6 will be re-constructed as follows :—

The amount (*i.e.*, the total of the deposits, contributions, bonuses, if any, and interest thereon) at the credit of a depositor may be withdrawn :—

- (1) In the event of the depositor's death before retirement,
  - (a) when it will be divided between his widow or widows and children in equal shares, any sums due to a minor being paid to the person nominated by the depositor in this behalf in the declaration form to be used for the minor's benefit; or it will be handed to such trustees as the depositor may appoint by will to administer, for the benefit of the widow or widows and children, the funds standing at his credit at the time of his decease;
  - (b) failing a widow or children to participate under (a), it will be distributed among other persons in accordance with any request submitted by the subscriber in the declaration form;
  - (c) if no such request has been submitted, it will be paid to the legal representative of the estate, as may be determined by a civil court having competence to pass orders in this respect; provided that, if the sum remaining at the credit of the depositor does not exceed Rs. 500, it may be paid to such person or persons as the officer making the payment considers to be entitled thereto;
- (2) on his ceasing to be servant of the Cantonment Authority either by dismissal, removal, retirement or resignation, when the amount will be handed to the depositor,
- (3) on his being transferred to the employment of another Cantonment Authority, when the amount will be transferred to the Cantonment Authority at his new station for payment in the Post Office Savings Bank.

*Note.*—The term "children" used in these rules means the children of the depositor and includes the widow and children of the deceased son of a depositor, but does not include the adult sons and married daughters whose husbands are alive of such deceased son.

The following will be added after paragraph 7, as 7-A :—

The amount which accumulates to the credit of a subscriber in permanent employ will, when he quits the service, become his property, and will be handed over to him, unless the Cantonment Authority has received notice of an attachment, assignment, or encumbrance affecting the disposal of the amount or any portion of it. Should such notice have been received, the Cantonment Authority will hand over to the subscriber only that portion of the amount which is not affected by the attachment, assignment, or encumbrance.

## THE GENERAL PROVIDENT FUND.

*Form of Declaration.*

(Vide rule 3 last clause, and rule 6 (1) (a), Cantonment Provident Fund Rules, 1917.)

I hereby declare that in the event of my death, my wife and children shall be entitled to receive payment of the amount to my deposit in the General Provident Fund in accordance with the provision of rule 6 (1) (a) of the Cantonment Provident Fund Rules and I make this my will so far as regards such deposit.

I also request that the amount payable as above to the minors be paid to the person named below :—

Name and address of the person to whom share is to be paid on behalf of minor.	Sex and parentage of the person referred to in previous column.

*Signature of depositor.*

*Signature of witness (1).*

*Signature of witness (2).*

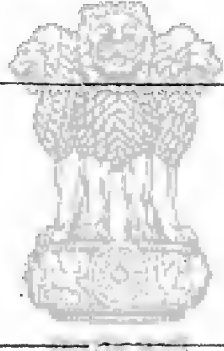
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*Form of Declaration.*

(Vide rule 3, last clause and rule 6 (1) (b), Cantonment Provident Fund Rules, 1917.)

I hereby declare that in the event of my death the following persons shall be entitled to receive payment of the amount to my deposit in the General Provident Fund in the proportions noted against their names and I make this my will so far as regards such deposit.

I also request that the amount payable as above to the minors be paid to the person named below.

Name and address of the nominee.	Relationship with the depositor.	Whether major or minor; if minor, state age.	Share of the deposit payable.	Name and address of the person to whom share is to be paid on behalf of minor.	Sex and parentage of person referred to in previous column.
					

*Signature of witness (1).*

*Signature of depositor.*

*Signature of witness (2).*



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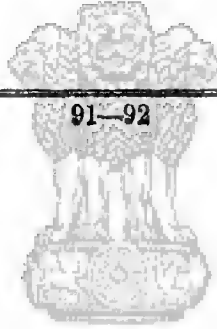
**ANNEXURE III.**

**Suggestions of the All India Cantonments Association on Mr. Craik's Committee Proceedings.**

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*Suggestions of the All India Cantonments Association on Mr. Craik's Committee Proceedings.**Separation of the Sadar Bazaar from the Cantonment.*

The possibility is very remote. The Commissioner of the Division may be

Possibility of friction between the Cantonment Authority and the municipal authority.

given the necessary authority of settling all matters in dispute, if at all. The apprehension that the municipal authority will not be fully alive to the conditions necessary for the health and welfare of the troops is groundless and does not take cognisance of the high sense of responsibility and administrative capacity exhibited by municipalities in the administration of their local affairs. In many places municipalities and Cantonment Committees have almost a house to house proximity. As an additional safeguard, the Government nominees in the Sadar bazaar Municipality may be officers specially conversant with matters pertaining to the health and discipline of troops. In many cantonments cities are as near the barracks as the Sadar Bazaar and if the present fears had any reality, they could equally apply to the municipalities of those cities as well.

This is only imaginary. There is no separate municipal police anywhere.

Possibility of friction between troops and Municipal Police.

The police in municipalities is under the control of the district authorities and the possibility of their conflict with the troops is an unthinkable contingency. Under present conditions in Sadar Bazaars and at railway stations there are generally both civil and military police, but they have seldom come into conflict with each other.

This is an extremely far-fetched notion. There are hardly any recreation

Reduction of the area for the exercise and amusement of troops.

grounds in the Bazaars, these grounds being provided in or near the regimental lines. Indeed, if there were recreation grounds, it would make Sadar Bazaars more attractive and sanitary and consequently make them better resorts for the troops.

This loss is quite probable. But it is extremely unfair and reconcilable to no

Apprehended loss of revenue.

principles of just administration, that the income derived from one class of people should be spent, in whole or in part, for the good of another class. The present system of appropriating large sums of money realised from the civil population for military interests is prejudicially affecting the interests of the civil population and is objectionable; sufficient money cannot under these circumstances be spent on sanitary measures in Bazaars and in areas occupied by the civil population. The Association is definitely of opinion that it should be laid down as a principle, that the amount raised by taxation from the civil area be utilised exclusively for the interests of people residing in that area. This will make Sadar Bazaars more sanitary and inviting than they are now, and as such will have a distinct effect on the health of the troops quartered near these Bazaars.

There will be no such loss. The Government interest in land will continue intact, the change will only mean a transfer from the military to the civil department.

Loss of land.

The latter can credit the income yielded by the land, to the military and thus there will be no loss of income under the present head. There are thus no valid grounds against this much-needed reform. No useful military purpose is served by keeping these large Bazaars of the dimensions of large cities attached to military areas. The present system of administration only causes hardship and discontent to the civil population as they feel that they are always living under a strict military rule and domination.

This should not be less than 66 per cent. The best course will be to adopt

Proportion of elected members in the Cantonment Committee.

the constitution followed in the nearest large municipalities with regard to franchise and election; the object being to introduce in cantonment administration the letter and spirit of the Reforms Scheme. It is highly desirable that Cantonment Committees should have an elected majority

Necessary safeguards can be provided to ensure conditions conducive to the promotion of the health, welfare and discipline of the troops by—

- (a) Nominating members, military or otherwise, thoroughly conversant with such conditions to the extent of 34 per cent. of the total strength of the Committee.
- (b) Vesting in the Officer Commanding the Area a power of veto in case a Committee's resolution is likely to affect the health of the troops, provided that, in each case of veto the resolution vetoed will be returned to the Cantonment Committee with a full statement of the reasons that necessitated the veto for reconsideration; should the Cantonment Committee, after a careful consideration of these reasons, approve of the veto, it shall be carried. The Association think that the power of veto should not be exercised in the following matters:—
  - (1) Taxation.
  - (2) Building of houses in areas occupied by the civil population.
  - (3) Education in the civil area.
  - (4) Medical and sanitary arrangements in the civil area.
  - (5) Other affairs pertaining exclusively to the welfare of the civil population.

This combination of functions is the root cause of all sufferings and discontent in the cantonment. For one man to be the prosecutor and the judge at the same time is highly prejudicial to a just administration of law. The Association would like to have the following principles laid down:—

Separation of judicial and executive functions in the cantonments.

- (a) That the jurisdiction of the military authorities should extend only to areas occupied by the troops. Areas occupied by the civil population should be administered by the civil authorities.
- (b) That the officer exercising judicial powers in the cantonment as a magistrate and as a civil judge *should have no concern with the executive affairs of the cantonment*, and should be exclusively under the control of the civil authorities. He might preferably be a member of the Provincial or Indian Civil Service, or a member of the Bar, or a Cantonment Magistrate. Such a judicial officer should carry on the entire judicial work pertaining to the administration of the law as well as special and local laws.

The Secretary of the cantonment should be a whole-time paid official, appointed by the Committee, subject to the confirmation of the Officer Commanding the Area. He may preferably be selected from among the cadre of the present Cantonment Magistrates, or from the Health Officers of recognised status. The president may be elected by the members and the procedure of working may be the same as is followed in the neighbouring large municipalities. Such of the present Cantonment Magistrates as cannot be otherwise suitably provided for in the Military Department, may be taken as deputed to the Civil Department, to act as purely judicial officers in cantonments with their existing emoluments, status and other service prerogatives.

The Association is emphatically of opinion that the provisions of the Cantonments Act and Code, be amalgamated into one Act, on the lines of the Municipal Act, with the sanction of the Legislative Assembly and any modifications and amendments that may be made therein in the future should be made only under the authority of the competent legislature. The present system of making changes in the Cantonment Code by the Governor-General in Council is very unsatisfactory and opposed to the general principles of common jurisprudence.

Change in the existing laws.

Appeals.

All appeals should go to the civil and criminal law courts.

*The Cantonments (House Accommodation) Act, 1902.*

1. The Act should be examined with the following objects :—

- (a) To make it a more efficient instrument for providing accommodation for military officers in cantonments.
- (b) To safeguard the interests of the house-owners and to determine an equitable basis for dealings between owners and tenants.
- (c) The Act, as now amended, shall be taken to be the only law that applies to house property in cantonments ; and all existing Army Regulations which have any reference to such property, shall be deemed to have no legal force in the future.

The Association propose that every cantonment, however small, should have a Cantonment Committee.

"Cannot be convened" may imply, inability to convene a meeting of a Committee, even where one exists.

*Section 2 (1) (a).*—Substitute "cannot be convened" for "has not been constituted" and delete the words from "or" up to "convened."

*Section 2 (1) (d).*—Add "but not crops, fruit trees, or grass, growing on the land at the time of occupation, unless the same are secured by some specific agreement."

*Section 2 (1) (g).*—Delete all the words after "alterations."

*Section 2 (2).*—For "whose decision shall be final" substitute "whose decision will be subject to revision by a civil court."

*Sections 3, 4 and 5* may remain.

*Section 6.*—Proposals of the official committee are agreed to.

*Section 7.*—Official proposal may stand.

*Section 8.*—Official proposal may stand.

*Section 9.*—Official proposal may stand.

*Section 10 (1).*—Add "civil" to "office" in proposed official amendment.

Add after section 10 (1) "provided that such sanction shall not be refused if the house has remained unoccupied for the previous six months, unless the Government agrees to take it on a five years' repairing lease."

*Section 11 (b).*—Official amendment may stand.

*Section 11 (c).*—The original provision should stand. The proposed amendment will have the effect of lowering the value of house property in cantonments and will deprive owners of the very elementary right of ownership.

*Section 11 (d).*—No objection to official amendment.

*Section 12.*—Proposed amendment may stand.

*Section 13.*—For "proposed tenant" substitute "lessee" (i.e., Government) for "Cantonment Magistrate" substitute "District Magistrate."

*Section 14 (1) and (2).*—Official amendments agreed to.

*Section 15 (1).*—Proposed amendment supported.

*Section 15 (2), (3) and (4).*—Proposed amendment supported.

*Section 16 (1), (a), (b) (c) and (d).*—Proposed amendment supported.

In sub-section (2) for "the Cantonment Magistrate" substitute "the Secretary, Cantonment Committee".

*Section 17.*—Proposed amendment is agreed to. Add after "sublets" the words "the whole or any portion of". Add also "his sub-lessees and the tenants shall be jointly and severally liable to pay an increase of 50 per cent. to the fixed or agreed rent for the house".

*Section 18* may be deleted.

*Sections 19 (1) and (2), 20 and 21.*—Proposed insertion of a new section after sections 21 and 22 agreed to.

*Section 22.*—*Add* after sub-section 1 in the original section (c), “or the owner fails to exercise the right of option given to him under the preceding section.” *Add* to official amendment “provided that the reduction made in the rent shall in no case exceed  $\frac{1}{3}$  the monthly rent.” The proposed deletion of sections 24, 25, 28, 29 and 33 is agreed to.

In section 23, *substitute* “Secretary, Cantonment Committee” for “Cantonment Magistrate”.

The proposed first section of Chapter IV is supported. In the proposed second section, clause (c) may be changed as under :—

“(c) Three elected members of the Cantonment Committee, chosen by the elected members of that authority, provided that one of them must be a member returned by the house-owners.”

In the proposed 3rd section *add* after “Chairman may nominate one or more members” the following words “out of the elected members of the Cantonment Committee”.

In section 27 (1) *add* “send a copy thereof to the Secretary, Cantonment Committee”. In section 27 (2), for “the Cantonment Magistrate,” *substitute* “the Secretary, Cantonment Committee”.

Amendments proposed in sections 30 (a), 31, 32, 33, 34 (1) and (2) are agreed to.

In section 34 (3) for “apply to the civil court” *substitute* “institute a suit in the civil court within two months of the date of the delivery of the award” and *omit* words after “civil court” up to “1894”.

*Sections 35 (1) and (2), 37 (1), (2) and (3) and 37 (b).*—As proposed by the official committee are agreed to.

*Section 38* should stand as it is.

In case of an important matter like a five years' lease, a little delay caused by the filing of an appeal is not of much consideration. The accepted procedure in all such cases is that when order is appealed against, all action is kept in abeyance till the appeal is decided.

*Section 39 (1)* may be deleted.

*Section 39 (2), (3) and (4).*—The new clause proposed by the official committee is supported.

In section 40 for “by post” *substitute* “by registered post acknowledgment due”. Proposed addition to section 41 should specify the principles on which the Standing Committee of Arbitration shall determine the amount of annual rental in the case of houses requisitioned by Government on a five years' repairing lease. Such principles should not be left to the discretion of the Government which being the lessee, has a direct interest in the matter. These principles should provide for the valuation of houses in accordance with the value of houses prevailing in the nearest civil station, and certain percentage not less than 10 per cent. on the value should be fixed as its rent. In view of the enormous rise in the cost of both labour and materials (which might be anything up to the extent of about 300 per cent.), an immediate increase of about 100 per cent. in the present rents of houses seems absolutely necessary. The Association feel that while the proposed increase would only satisfy an already overdue claim, it will not be grudged by the tenant class whose emoluments have already been increased on similar considerations.

*Add* after section 42 (1) “until at least one month has expired after their publication in the *Gazette of India* and in the *Local Government Gazette*, such proposals should be communicated to Cantonment Committees and be laid before the members at the earliest meeting.”

In section 42 (3) “The Cantonment Authority” should stand.

*Section 43* is unnecessary and may be repealed.

*Section 44* may stand.

*Rules.*

Rule (1), Rule (2) (b), as amended and Rule 3 agreed to. In Rule 4, for the Cantonment Magistrate " substitute " The Secretary, Cantonment Committee ".

In Rule 6, after the words beginning with " if it be considered " and ending with " reasonable " should be omitted or the proviso should read as under :—

" Shall ordinarily except when the Standing Committee of Arbitration considers the request made for the attendance of all or any of the witnesses named and the production of all or any of the documents called for, to be unreasonable."

Rule 12 is unnecessary in view of the new constitution.

In Rule 14 for " Cantonment Magistrate " substitute " The Secretary, Cantonment Committee ".

In Rule 15, reference to section 39 (4) may be omitted.

In the concluding sentence of Rule 8, *add* after " Chairman ", " and the members of the Committee, and in the case of dissent, the dissenting member shall have the right to record his dissent with the reasons therefor, if he so desires."

*The Cantonments Act, 1910.*

In section 5 (1) *omit* the words " or for any reasons cannot be convened."

In section 15, proposed amendment is agreed to.

*Section 19 (2).*—The clause about the maintenance of the police from the Cantonment Fund is to be omitted.

*Section 21* to be changed as under :—

" The Cantonment Fund shall vest in and be under the control of the Cantonment Authority."

*Section 23.*—*Substitute* " within the territories administered by the Government of the Province in which the said cantonment, or the part of it, lies in British India ".

*Section 24.*—The Association is strongly of opinion that the matters mentioned in this section be dealt with under enactment to be embodied in the Act and not by rules to be framed by the Governor-General in Council. In fact, the whole of the Cantonment Code should be incorporated into the Cantonments Act and two should be amalgamated and consolidated into one Act, and liable to amendment only by competent legislature.

*Section 24 (6)* is opposed to the spirit of Reforms suggested and should be expunged. The officer exercising magisterial and judicial powers in the cantonment should on no account be entrusted with executive work.

In section 24 (23) *delete* " The removal and exclusion from a cantonment of disorderly persons " \* \* \* \* \* up to " therefrom."

*Section 24 (27).*—The appointment of an agent is not to be insisted upon for owners living near the cantonment. After the word " cantonments " *add* " in cases where such houses have not been taken by Government under section 6 of the Cantonments (House Accommodation) Act, 1902."

*Section 25 (1).*—*Add* after " condition," " draft of the rules being published in the *Gazette of India*, Local Government Gazettes and the principal newspapers of India at least three months before these are considered to enable the residents of cantonments to submit their views about the draft rules and their not taking effect unless they are republished in the *Gazette of India*, Local Government Gazettes and the principal newspapers, in the form in which they have been finally passed ".

*Section 25 (4).*—*Increase* the fine to Rs. 100, and *delete* the words " or with imprisonment for a term which may extend to eight days " also *omit* " or imprisonment as aforesaid ".

*Section 26* to be *deleted*, as being unnecessary.

*Section 28.—Omit* “ whether the thing was or was not authorised by the powers so conferred.” This power has the effect of encouraging excesses. An official requires all protection he can get for acts committed in “ good faith,” but he is not entitled to any protection under the law when he does an act outside his province and not within his authority.

*Section 29 (2).—For the “ Cantonment Magistrate ” substitute “ Cantonment Authority.”*

*Major Knowle's Note of Dissent.*

The Association agrees with the views of Major Knowles that the executive duties now thrust upon Cantonment Magistrates really did not belong to them, and that these executive duties should be entrusted to another official appointed as Secretary of the Cantonment Committee. The latter should preferably be the Health Officer as his duties are chiefly connected with sanitation.

The Association does not agree to the proposed enhancement of the status of the Cantonment Magistrate to that of a District Magistrate. The judicial officer administering ordinary and special laws in the cantonment should be subordinate to the District Magistrate and to the superior law courts.

The Association is emphatically of opinion that the Secretary of the Cantonment Committee should in no way be subordinate to the cantonment judicial officer and the latter should have no supervising control over executive matters, or over finance.

In small cantonments, where Cantonment Committees cannot be constituted or where financial position does not permit the appointment of a paid Secretary, the executive work of the cantonment may be entrusted to a Health Officer of the cantonment who virtually performs the duties of the Secretary, Cantonment Committee.

The Association endorses the views expressed in the concluding part of the Note of Dissent.

*Colonel Nevill's Note.*

The Association entirely agrees with Colonel Nevill as to the desirability of readjustment of the area now included in cantonments”. The principle to guide this re-adjustment should be—

- (a) that the area which has been allowed to become civil to all intents and purposes should be excluded from the cantonment area and converted into a separate municipality or incorporated in the adjoining rural area under the control of the district concerned, according to the size, population and importance of the population of the area detached ;
- (b) any additional area required for the construction of “ barracks ” or military persons quarters can be acquired either by exchange or otherwise ;
- (c) in case where the excision of a civil area may be impracticable for some really cogent reason, it should be ruled that the income derived from the taxation of the population residing in that area should be spent in the interests of that population alone and not for any military objects as is done now. The Association strongly objects to the prevailing system of exploiting civil areas for military purposes. The Association considers that the administration of a civil area as a “ notified area ” within the cantonment will accentuate the troubles and grievances of the civil population, instead of redressing those that exist. The only remedy is either to exclude the area, or convert it into a municipality, or where this is not practicable owing to the smallness of the population, to have the area administered by a Cantonment Committee having an elected majority.

The Association has already made it clear that the administration of special cantonment laws in respect of the civil population by military officers under the influence of military authorities cannot, in the very nature of things, be strictly impartial and equitable.



The Association thinks that the administrators of law should be different from those in whose interest the law has primarily been enacted. It is, therefore, that the Association has suggested that the administration of special laws of the cantonment be entrusted to an independent judicial officer, whose position does not make him susceptible of extraneous military influences.

The Association is, therefore, emphatically opposed to the suggestion of Colonel Nevill, to entrust the administration of special cantonment laws to the Cantonment Magistrate, whom he wishes to turn into a military staff officer. The evil of dual control referred to by Colonel Nevill in his note will disappear if the suggestion of the Association to divest the cantonment judicial officer of all executive duties and powers and to transfer the same, partly to the Secretary, Cantonment Committee, and partly to the Officer Commanding the Area, be approved.

*The Cantonment Code, 1912.*

The Association does not support the proposal of a direct connection between the Cantonment Committee and the Command. The local military authorities will lose touch with the working of the Committee, and the Command will not have that intimate local knowledge which has, not unoften, an important bearing on the decision of a question.

The Association are agreed that the present system of control by General Officers Commanding, Areas and Districts, and the channel of communication should be retained. The most important question is the determination of the relations between Cantonment Committees and the Military Department, the extent to which the latter exercises control over the affairs of the former and the manner in which that control is to be exercised and matters in which the Committee will enjoy complete freedom of action in consonance with the spirit of the Reforms Scheme.

*Section 2 (1) (b), (c), (d) and (h).*—No objection to the proposed amendment.

Omission of section 2 (1) agreed to.

*Section 2 (2).*—The original section should stand. The proposal is retrograde and impairs efficiency.

*Sections 3, 4 and 5* may be re-drafted on the following lines :—

- (a) may be 25, in cases of cantonments having a whole-time Magistrate and an Assistant,
- (b) may be 15, in cases of cantonments having a whole-time Magistrate but not an Assistant,
- (c) may be 15, in all other cantonments, except those where the civil population is too small to warrant the constitution of a Committee,

Sixty-six per cent. of the members may be elected by the civil population according to the rules of election and franchise followed in the municipality of the chief town of the district. Thirty-four per cent. may be nominated by the military authorities according to such rules as may be framed by them on the subject. The President should be elected by the members, but should this proposal be considered premature, the present system whereby the President is nominated by the Officer Commanding the Area or the District, as the case may be, may continue. In the latter case, there should be an elected Vice-President to act in place of the President, in his absence or to carry on such of his duties as may be delegated to him by the President in the interests of efficiency.

The Secretary of the Committee should be a whole-time paid official *in case of cantonments of (a) and (b) class mentioned above, appointed by the Cantonment Committee.* In case of the cantonments coming under clause (c) as defined above, the Health Officer of the cantonment may act as Secretary on payment of a reasonable allowance from the Cantonment Fund. No officer exercising magisterial functions in the cantonment should be appointed President, Vice-President, or Secretary of the Committee.

No decision to be arrived at by a simple circulation of papers to the members of a Committee.

Resolutions passed must be taken down in writing at Committee meetings and never to be changed except by subsequent express consent of the Committee.

Minutes of the previous Committee meeting should be read out and confirmed, before proceeding with the future business of that meeting.

No new item of business should be entered on the agenda unless it is entered within three days from the date of meeting.

A regular periodical change of the cantonment clerical staff from one cantonment to another is recommended.

Cantonment servants.

*Section 6* is superfluous.

*Section 7 (1)* should be retained in the original form. *Add* the words "at his own initiative or under a written requisition sent to him by at least three members of the Committee."

*Section 7 (3)*.—The following may be substituted :—

(a) Every notice for an ordinary meeting shall be issued so as to reach each member at least eight days before the date of the meeting. A notice for an extraordinary meeting convened by the President under the concluding part of section 7 (1) may be issued any time at the discretion of the President.

(b) For every ordinary meeting an agenda will be prepared by the Secretary with the approval of the President and shall be sent to each member at least three days before the date of the meeting. The agenda shall include all the proposals sent by the members to the Secretary at least five days before the date of the meeting.

A new clause is to be added to provide that the securing of opinion by the circulation of a proposal in writing from individual members is not permissible.

*Section 7 (4)*.—The proposed omission is strongly opposed. The clause is a very necessary safeguard against the rushing through of important business by the Committee.

*Section 7* may stand.

*Section 8*.—Change "six" into "eight."

*Section 9*.—Proposed change agreed to.

*Section 10 (2)*.—The proposed addition is agreed to.

Sub-sections (1) and (2).—*Add* "in the words of the dissenting member".

*Sections 13 to 16*.—The Association is strongly of opinion that, subject to the safeguard necessary for the preservation of public peace and safety and for the maintenance of the health and discipline of troops, the Cantonment Committee should enjoy complete independence of action and should have absolute control over local affairs. The Association has already proposed a qualified power of "veto" for the Officer Commanding the Area or the District. The power of absolute veto should rest with the Command in cases where the decision of the Cantonment Committee is considered to be likely to affect health, welfare or discipline of the troops.

The Association is inclined to the view of vesting a similar limited power in the District Magistrate and a similar absolute power in the *Commissioner* of the Division in matters where, in the opinion of the civil authorities, the decision of the Cantonment Committee is likely to affect the public peace, or the welfare of the citizens of the cantonment. This proposal would provide a necessary safeguard to both military and civil interests. The Officer Commanding the Area or the District Magistrate should be given the power of intimating his objection to any decision of the Cantonment Committee to the President, and any action on that

decision ought to be suspended till the matter is finally decided by the Command, or by the Commissioner.

*Section 14 (1).*—Amended form is agreed to.

*Section 14 (2)* may be omitted.

*Section 17.*—Substitute “The Secretary, Cantonment Committee” for “The Cantonment Magistrate”.

*Section 17 (2), (3) and (4)* are superfluous and may be omitted.

The proposal of giving the Cantonment Magistrate the position of a soldier performing civil duties and entirely under the control of the military authorities is quite opposed to the interests of good administration in cantonments and is virtually a step backward. The recommendations put forward by the Association provide for an independent judicial officer and an independent executive officer; the latter being appointed the Secretary, Cantonment Committee. If the military authorities still think a third officer is desirable, such an official should not exercise any magisterial and judicial powers, and shall have no concern with municipal affairs of the cantonment.

*Section 18 (1).*—Proposed amendment is agreed to.

*Section 18 (2).*—Proposed amendment is agreed to.

The proviso may be omitted.

*Section 19.*—Substitute “the Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

The proposed change in the word “instituted” may be made.

*Section 20.*—For the “Cantonment Magistrate” substitute “the Secretary, Cantonment Committee”.

*Section 20 (a).*—Add “provided that monthly pay does not exceed Rs. 15”. After “appoint” add “within the sanctioned scale. All other appointments shall be made by the Cantonment Committee”.

*Section 20 (d)* may be changed as under :—

“Dispose of applications for all sorts of leave of the servants drawing Rs. 15 or less per mensem and of casual leave only in case of other servants in whose case, other kinds of leave will be sanctioned by the Cantonment Committee”.

*Section 21.*—Substitute “The Secretary, Cantonment Committee,” for “the Cantonment Magistrate,” and add after “authority” the following words “drawing Rs. 15 or less per mensem. In the case of servants drawing a higher rate of pay, such action will be taken by the Cantonment Committee”

In the second proviso change “Cantonment Magistrate” into “the Secretary, Cantonment Committee”, add “ordered by him”.

The exception added by the Army Department may be omitted.

*Section 22.*—No change.

*Section 23 (1).*—No change.

*Section 23 (2).*—For the words “imprisonment for a term which may extend to two months” substitute the following :—

“a fine not exceeding Rs. 20”.

*Section 23 (3).*—The proposed change is agreed to.

*Section 24.*—For the “Cantonment Magistrate” substitute “the Secretary, Cantonment Committee”.

*Section 25.*—As above.

*Section 26.*—As above.

• *Section 26 (a).*—Proposed reference is supported.

## CHAPTER IV.

*Section 27.*—No change.

*Section 28* may be expunged.

*Section 29 (b)* is unnecessary according to the suggestion made by the Association.

Proposed addition to *29 (e)* is agreed to.

*Section 29 (f) (ii).*—The suggestion made is supported. The Association has already expressed an opinion that all expenditure incurred by the Cantonment Committee in the interests of the troops, should be met by the Military Department.

*Section 29 (g).*—Add after the word “ school ” the following :—

“ other charitable public institutions ”.

*Section 29 (j).*—The suggestion made is absolutely fair.

*Section 29 (k), (l), (m), (n), (o).*—No change.

*Section 29 (2)* may be omitted.

*Section 30 (a).*—No change.

*Section 30 (b).*—Substitute “ Command ” for “ Officer Commanding the Division ”.

*Section 31.*—Substitute “ Command ” for “ Officer Commanding the Division.”

*Section 32 (3).*—Proposed amendment is agreed to.

*Section 32 (4).*—Substitute “ Command ” for “ Officer Commanding the Division ”.

*Section 32 (5).*—Substitute “ Command ” for “ Officer Commanding the Division ”.

*Section 33 (1) (b).*—Proposed amendment is agreed to.

*Section 33 (2).*—Substitute the “ Secretary, Cantonment Committee ” for the “ Cantonment Magistrate ” in the proposed amendment of Mr. Craik’s Committee.

The omission of the proviso is agreed to.

*Section (34) (b).*—For the words “ if so directed by the Officer Commanding the Division ”, substitute “ if so authorised by the Cantonment Committee ”.

*Section 35.*—No change.

*Section 36 (2) (a) (i).*—For the figure “ five hundred ” substitute “ fifty ”.

*Section 36 (2) (a) (ii).*—For the figure “ five hundred ” substitute “ fifty ”.

And add after “ President ” the following :—

“ or Vice-President ”.

The note given by the official committee with regard to the desirability of incorporating most of the provisions made in Chapter IV into the proposed Cantonment Account Code is supported. The proposed Code might more properly be called “ The Cantonment Fund Account Code ”.

The Association would like to add that in the compilation of the proposed Code, their suggestions regarding the allocation of executive duties to a separate official, namely, the Secretary of the Cantonment Committee, might be taken into consideration when preparing a system of accounts. The Association thinks that those executive duties might be limited in their scope, and that greater authority and power of executive control be vested in the Cantonment Committee.

Proposed omission of section 59 is agreed to.

In *section 93 (b)* omit the words “ or cannot be convened ”.

The proviso under this section may stand as at present.

Section 67 (I) (a) (xv). }  
 Section 67 (I) (b), (f), (i). } The proposed changes are not supported.

Section 67 (o) and (p). Substitute "The Secretary, Cantonment Committee" for "The Cantonment Magistrate".

Section 68 (3) (a).—The proposed change is agreed to.

Section 69 (e).—Substitute "The Secretary, Cantonment Committee" for "Cantonment Magistrate".

Section 72.—Substitute "The Secretary, Cantonment Committee" for "Cantonment Magistrate".

Section 73.—Substitute "Cantonment Committee" for "The Officer Commanding the Division".

Section 74.—The proposed transfer of this section to bye-laws is supported.

Sections 75 and 76 should remain as they now stand. Their exclusion is not an improvement.

Section 77.—Substitute "The Cantonment Committee" for "Cantonment Magistrate".

Sections 78 and 79 should retain their present form.

Sections 80, 80-A, 80-B and 81.—No change.

Section 82.—The proposed change is not supported, and the retention of the "proviso" is advocated.

Section 83 (1) (4).—The proposed substitution of "an elected" member for the "Civil Surgeon" is supported.

Section 84.—The proposed change is not supported.

Section 85.—The section is quite unnecessary, and, as the official committee has aptly remarked, serves no useful purpose in practice.

For the repairs or demolition of ruinous buildings there is the definite section 97, and the case of enforcing sanitary improvement to buildings considered to be insanitary, is already sufficiently provided for in that section. The section should therefore be removed, specially because its use in the past has been a cause of a good deal of controversy and has not infrequently been abused.

Section 86 (1).—Substitute "The Secretary, Cantonment Committee" for "the Cantonment Magistrate".

Section 86 (2).—Omit the words "with imprisonment for a term which may extend to eight days or".

Section 87 may stand.

Sections 88, 89 and 90.—No change is advocated.

Section 90 (2).—The change proposed seems nothing more or less than the introduction of "Martial Law" and will evoke general resentment. It can be supported on no principle of equity and justice. It is, therefore, strongly opposed. The section may stand in its original form.

Section 93 (1).—The penalty for the breach of this section is the notice of removal provided in clause (2) and the non-compliance of notice given under clause (2) is punishable under section 107. The view of the official committee is therefore not understood.

If the Committee mean that by providing a specific penalty for section 93 (1), clause (2) is not to apply, *i.e.*, the unauthorised projection is to stand, the Association has no objection to the provision of penalty suggested.

*Sections 93 (3), 94, 95, 96, 97, 98, 99 and 100.*—No change required except that in sections 98 and 100 “the Secretary, Cantonment Committee” may be substituted for “Cantonment Magistrate”.

*Section 101.*—The proposed change is very feasible.

*Section 102 (1) and (2)* may stand unaltered.

*Section 103 (a) and (b).*—No change advocated.

*Section 104 (1).*—No change advocated.

*Section 105.*—Substitute “The Cantonment Committee” for “The Cantonment Magistrate”.

*Section 106.*—No change.

*Sections 107 and 107-A.*—The suggestions made by the official committee contemplate an unnecessary hardship. Section 288 deals with acts of the breach of section 89. Section 90 (1) does not provide for a proper name to be fixed to any house and therefore no penalty can be prescribed for the owner of a house failing to affix a proper name to it.

*Section 108 (1) (a) and (d), and section 108 (2).*—Substitute the “Secretary, Cantonment Committee” for the “Cantonment Magistrate”.

*Section 109.*—Substitute “Officer Commanding the Area” for “Cantonment Magistrate”.

*Section 112.*—Proposed amendment supported, except that the power proposed to be given to the Cantonment Magistrate should be given to the Cantonment Committee.

*Sections 113 and 114 (1) and (2)* may remain unaltered.

*Section 115.*—The proposed omission is agreed to.

*Section 116.*—No change.

*Section 117.*—Substitute the “Secretary, Cantonment Committee” for “Cantonment Magistrate”.

*Section 118.*—No change.

*Section 119 (2) and (3).*—No change.

*Section 120 (a), (b), (c) and (d).*—The omission of these is agreed to.

*Section 121 (1).*—The proposed change is agreed to.

*Section 121 (2) and (3).*—To stand unaltered.

*Section 122.*—Its omission is recommended.

*Section 123.*—No change.

*Section 124 (1).*—Substitute “The Cantonment Committee” for “the Cantonment Magistrate”. No other change is advocated.

*Section 124 (2) (ii).*—Omit the words “The Cantonment Magistrate acting with the sanction of”.

*Sections 125 (1) and (2), 126, 127 and 128.*—No change is advocated.

*Section 129.*—The proposal made by the official committee is agreed to, but substitute “Cantonment Committee” for “Cantonment Magistrate”.

*Section 130* may stand.

*Section 131 (1)* may stand. The amendment proposed by Mr. Craik’s Committee is not considered desirable.

*Section 131 (2) and (3).*—No change. The Committee may be given the power proposed.

*Section 132 (a) to (f).*—Proposal of the official committee is agreed to.

*Section 133 (1) and (2).*—No change.

*Section 134 (a), (b) and (c).*—The proposed omission is supported.

*Sections 135 and 136.*—No change.

*Section 137 (1).*—The proposed explanation is desirable, but the substitution of “the Magistrate” for “the Cantonment Committee” is not agreed to.

*Section 137 (2) and (3)* may stand.

*Explanation* may stand.

The Association agrees with the general observation of the official committee at this stage.

*Section 138.*—The proposal made by the official committee is supported.

*Section 139.*—The proposed omission of the section is supported.

*Section 140.*—No change.

*Section 141.*—Substitute “Cantonment Authority” for “Cantonment Magistrate” and remove the words “or by the District Superintendent of Police”.

*Section 141-A.*—No change.

*Section 142.*—No change.

*Section 143.*—Unnecessary.

*Sections 144, 145 and 146.*—No change.

*From section 147 to section 171.*—No change.

#### CHAPTER X.

*Section 172.*—The proposal to impose a licence fee which is another name for professional tax is feasible, but to guard against any undue hardship the procedure to impose this licence fee should be the same as laid down for the imposition of a professional tax, viz., after a reference to and with the sanction of the Local Government under section 15 of the Cantonments Act. The words “Cantonment Authority” should remain.

*Section 172 (g).*—The words “used as human food” are necessary, and may remain.

The Association agrees with the official committee as to the undesirability of introducing a “rate class” in the licence.

The Association endorses the views of the Committee with regard to the authorization of the Cantonment Committee to frame bye-laws on certain minor details.

*Sections 175, 176, 177 and 178.*—No change.

Proposed amendments of section 179 are supported.

*Sections 180 and 181 (1) and (2).*—No change.

#### CHAPTER XI.

*Section 182.*—Substitute “The Secretary, Cantonment Committee” for “the Cantonment Authority.”

*Section 183.*—The proposed technical change is agreed to.

*Section 184.*—Substitute “The Cantonment Authority” for “the Cantonment Magistrate”.

The change in this section suggested by the official committee is extremely undesirable. The Medical Officer is the only person who can decide how far the spread of an infectious disease is due to the milk. His opinion in the matter should be the determining factor.



*Section 185.*—Substitute “the Cantonment Authority” for “the Cantonment Magistrate”.

*Section 185.*—Substitute “the Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

*Section 187.*—Substitute “the Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

*Section 188.*—No change.

*Sections 189, 190 and 191.*—Substitute “the Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

*Section 192.*—No change.

*Section 193* may stand as at present. The addition of a “clause” recommended by the official committee to legalize the expenditure incurred on the construction of temporary shelters is agreed to.

*Sections 194, 195 and 196.*—No change is advocated.

*Section 197* is unnecessary, as punishment for non-compliance with “notices” is provided in section 288.

*Section 198.*—No change.

*Section 199.*—The amended form is supported.

*Section 200.*—Substitute “The Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

*Section 201.*—No change.

*Section 202.*—The proposed amendment is supported.

*Sections 203 and 204.*—No change.

*Section 205* is very necessary and should stand.

In the opinion of the Association it is necessary to add a clause that in a hospital maintained by the Cantonment Committee, no professional fee or gratification in any form shall be accepted by the medical officer for professional services rendered within the premises of the hospital.

*Sections 206 and 207.*—No change.

*Sections 208 and 209.*—A distinct note may be added that the sections apply to prostitutes only. The Association differs from the view expressed by the official committee in transferring the power of expulsion given under this section from the Officer Commanding the Area to the Cantonment Magistrate.

The section may stand now with a *note* referred to above.

*Section 210.*—The suggestion made by the official committee is unnecessary as the punishment is provided in section 288.

*Section 211 (1).*—Substitute “The Secretary, Cantonment Committee” for “the Cantonment Magistrate”.

*Section 211 (2).*—The proposed omission is supported.

*Section 212.*—No change.

## CHAPTER XII.

*Section 213.*—The proposed amendment is agreed to.

*Section 214.*—The punishment already provided is sufficient. The official committee seems to have no idea of the “dread” that imprisonment has to “oriental” minds, even if it extends to a few hours.

*Sections 215 and 216.*—The Association has from the very beginning condemned the arbitrary power given in these sections. These sections have a very interesting history. Their original object was to check the spread of venereal disease

among the troops ; special provisions were formerly made for the attainment of this object, namely, the institution of what was known as the *Lock Hospital*. These institutions evoked an indignant protest and were considered to have a very degrading effect on the women with the result that Lock Hospitals were abolished. Their abolition resulted in an increase in venereal disease, and legislation was found to be imperatively necessary. Hence sections 215 and 216 were introduced and embodied in the Code. It was then stated that the sections would apply to low class persons of no morality living in or frequenting cantonments for immoral purposes, whose contact with the troops was undesirable. On one occasion, a question was asked by the Honourable Mr. S. Sinha of the probable use of these sections. The then Commander-in-Chief gave a definite assurance on behalf of the Government that sections 215 and 216 were intended for convicts, criminals, and notorious people of bad character. The original intention, therefore, of the law was not to violate the freedom of peaceful law abiding self-respecting citizens of cantonments.

The present use of these sections, however, has completely belied those assurances and these sections have been grossly abused. In one instance a respectable citizen of Ferozepore (Mr. Jamal-ud-din) was expelled from the cantonment under this section, simply because he protested against the realization of the scavenging tax in the form in which it was demanded by the Cantonment Authority.

There are innumerable instances in which very respectable residents of the cantonments of high moral character, truly patriotic and loyal, have found themselves to be the victims of these sections simply because they happened to incur the displeasure of some cantonment underling, or police official or even some cantonment subordinate who are always easily susceptible of poisoning the minds of higher authorities by producing false evidence and gaining their end in view. Instances are multiplying where these sections have been used not for putting a stop to the menace which affects the health of the troops, but for depriving the innocent citizens of the cantonment of their civil rights and liberty. The power of expulsion under the section at present is vested in the Officer Commanding the Cantonment. A very junior officer not unoften finds himself in that position, and even when this position is held by an experienced senior officer he has to rely upon information given to him by the Cantonment Magistrate and others. The Officer Commanding the Cantonment seldom conducts a personal enquiry into the case for the purpose of verifying the truth of it. The provision as regards appeals is a mere formality. There is one stereotyped reply that is given in all such cases and that is "that the General Officer Commanding regrets his inability to do anything in the matter."

It is seldom that the man punished is given the opportunity of explanation but even when one is given as a matter of courtesy the explanation offered is rejected without any serious effort being made to examine it.

So long as these sections exist, no reform, however liberal, will be acceptable to the cantonment residents. These sections are unnecessary. The general criminal laws of the country afford sufficient provision to meet all cases coming within the purview of the section.

It is, therefore, earnestly requested that sections 215 and 216 be deleted from the Cantonment Code. If an extreme contingency does arise at any time, Regulation III of 1809 is always there to meet it.

The Association fully shares the anxiety of the military authorities for the maintenance of discipline of troops and they wish that persons tampering with the loyalty of troops should be severely punished. All that the Association desires is the protection of innocent men. They are always likely under present conditions to find themselves in trouble owing to an indiscreet and wrong use of the existing law.

*Section 217.*—The proposed enhancement of punishment is objected to. The fundamental idea in prescribing a punishment is that it should be commensurate with the nature of the offence and that it should have a deterrent effect. Even if a person does secretly re-enter the cantonment, he can hardly be run in for mischief. The punishment already provided is enough and deters persons harbouring or concealing persons expelled from the cantonment.

## CHAPTER XIII.

*Section 218.*—No change.

*Section 219.*—The proposed amendment is accepted.

*Section 220.*—The proposed ammendment is accepted.

*Section 221 (1) and (2).*—No change.

*Section 221 (3).*—The section may stand in its original form.

## CHAPTER XIV.

*Sections 223 (1) and (2) and 224* may stand as now. The official change is not agreed to.

*Section 225.*—Delete the words “with the permission in writing of the Cantonment Authority” in the proviso.

## CHAPTER XV.

*Substitute* “Cantonment Authority” for “the Cantonment Magistrate.”

## CHAPTER XVI.

*Section 231 (1).*—After the word “cantonment” *add* the words “and does not reside in or near the cantonment.” For “the Cantonment Magistrate” *substitute* “the Secretary, Cantonment Committee,” provided that no nomination of an agent will be necessary for houses leased to the Government under section 6 of the House Accommodation Act.

*Section 232.*—No change.

## CHAPTER XVII.

*Section 233.*—No change.

*Section 234* may stand as now.

*Section 235 (f).*—Change “Cantonment Mgaistrate” into “Cantonment Committee.”

*Section 236.*—For “the Cantonment Magistrate” *substitute* “the Secretary, Cantonment Committee.” The alternative proposal of Mr. Craik’s Committee is too general to be accepted.

*Section 237.*—*Substitute* “the Secretary, Cantonment Committee.” for “the Cantonment Magistrate.”

*Section 238.*—No change.

*Section 239 (1).*—The proviso in the original section should be omitted.

*Sections 240, 241, and 242 (a).*—No change.

*Section 242 (b).*—No change. The original section might stand.

## CHAPTERS XVIII AND XIX.

*Sections 243, 244, 245 and 246.*—No change.

*Section 247.*—Delete the following: “78 (e), 85, 215, sub-section 3, and 216.”

*Section 248 (1).*—In place of this section, a new section may be inserted on the lines of the recommendations made by the Association. The orders of the Cantonment Committee with regard to the dismissal of its employees drawing Rs. 20 or less per mensem shall be final. In other cases appeals should be allowed to the authorities mentioned in Schedule V.

*Section 248 (2), (3) and (4).*—The proposals of Mr. Craik's Committee are not supported.

*Section 249.*—Add after final " provided that an order passed by the appellate court shall be subject to revision by the higher authorities. "

#### CHAPTER XX.

General observations made by the official committee are agreed to. But in cases of dispute arising under proviso 6, section 92 (1), and the proviso to section 142, the Arbitration Committee's decision shall be confined to the question of the " amount of compensation only. "

*Section 253.*—Substitute " the Secretary, Cantonment Committee, " for " the Cantonment Magistrate. "

#### CHAPTERS XXI AND XXII.

The Association agrees to the general remarks put forward by Mr. Craik's Committee, except that the proposed clauses (9) and (10) are neither justifiable nor necessary. Punishment is already provided in section 23 of the House Accommodation Act for failure to give the necessary information about transfer, etc. No power to veto the transfer of the same is allowed by any law beyond the provision of the House Accommodation Act or the conditions of a registered lease. The Association will of course recommend the substitution of " the Secretary, Cantonment Committee, " for " the Cantonment Magistrate " in all cases where the latter acts as the executive officer of the Cantonment Committee.

#### CHAPTER XXIII.

Mr. Craik's Committee's remarks about section 277 call for no observations from the Association.

*Sections 278, 279 and 280.*—No change.

The suggestion made by the official committee with regard to sections 281 and 282 is agreed to.

*Section 283.*—The Sub-Committee shall invariably submit its report to the Cantonment Committee for confirmation. The section should be amended to provide for this.

The general note about the substitution of " the Secretary, Cantonment Committee, " for " the Cantonment Magistrate " applies to this chapter as well.

*Sections 284 to 287.*—No change.

*Section 288.*—Omit " the imprisonment for a term which may extend to eight days. " Punishment for a breach of all important sections has already been provided for in separate sections. This is a general section to cover cases of a miscellaneous nature where the punishment does not seem to be justified.

*Section 289.*—No change.

*Section 290.*—The view expressed by the official committee on this point does not seem to be quite correct. The power to recover " rents " where disputed by the person in occupation of the house or land by summary methods is vested by no law either in the Cantonment Authority or in the Municipal Committee. Recovery of all such rents should be effected through the ordinary civil courts.

*Section 291.*—The official amendment is agreed to, provided the punishment does not exceed a fine of Rs. 10.

*Sections 292 to 296.*—No change advocated.

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**ANNEXURE IV.**

**Proceedings of Mr. Renouf's Representative Committee dealing with the revision  
of Cantonment Law and Administration.**

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*Proceedings of Mr. Renouf's Representative Committee dealing with the revision of  
Cantonment Law and Administration.*

PART I.

The Committee met on Monday the 31st January 1921, at Army Headquarters, Delhi.

PRESENT.

W. C. RENOUF, Esq., C.I.E., I.C.S., M.L.A., President.

*Members.*

Brigadier-General J. Charteris, C.M.G., D.S.O., R.E.

Colonel H. R. NEVILL, O.B.E.

Lieutenant-Colonel J. W. HARLEY LYON, I.A., C. M's Department.

The Hon'ble Khan Bahadur EBRAHIM HAROON JAFFER of Poona.

Khan Bahadur Seth ADAMJI MAMOOJI of Rawalpindi.

Principal J. P. COTELINGAM, M.A., M.L.A.

Lala NARAIN DAS, B.A., LL.B., Vakil, Jullundur.

*Secretary.*

Major J. K. KNOWLES, I. A., C. M's Department.

It was proposed to take the proceedings of Mr. Craik's Committee as a groundwork for discussion and to follow the order of those proceedings as far as possible. A detailed and considered note furnished by the four non-official members was filed and placed on record.\* This is to be regarded as the views of the All India

\* Annexure III.

Cantonments Association and not necessarily the personal views of any non-official member of this Committee.

1. The Committee considered and discussed paragraph 1 of Part I of the Proceedings of Mr. Craik's Committee dealing with the separation of Sadar Bazaar areas from purely military areas in cantonments, together with paragraphs 2 and 3 of Part VIII on the same subject.

As regards paragraphs 3 (1) of Part VIII, Colonel Nevill pointed out that the excision of an area would always be subject to the strict reservation of the rights of Government in land in that area, the disposal of such rights being in the discretion of Government. It should not be assumed that such rights in land would vest in a newly formed municipal committee.

General Charteris proposed that paragraphs 1 and 5 of Colonel Nevill's note should be first accepted as enunciating the basic principles on which the recommendations of the Committee should be framed. General Charteris emphasized the point made by Mr. Craik's Committee that the health, welfare and discipline of the troops must be the first consideration in cantonment administration. The non-official members were not prepared to accede to General Charteris' proposal as they considered that such acceptance would hamper them in the discussion of other points which are for the consideration of this Committee.

2. The non-official members were then asked if they would accept the concrete recommendations in paragraph 3 of Part VIII, read with paragraph 2. After discussion, the non-official members expressed their reluctance to agree at this stage. They stated that one of their chief aims is the complete conversion of large Sadar Bazaars into municipalities with elected majorities on the municipal committees.

But paragraphs 2 and 3 were accepted eventually as a step towards their ultimate aim. Paragraph 3 being amended as follows:—

3, Where these requirements have been satisfied two alternative courses are possible:—

- “(1) Excision of the area not wanted for actual military requirements in cases where the Sadar Bazaar is contiguous to, but not surrounded by, military areas.
- (2) In cases where the bazaar is surrounded by military areas and where the incidence of taxation and its application to general cantonment purposes constitutes a real grievance, the non-military area might be administered by a separate local body with a proportion of elected members, to be discussed hereafter, and under the present cantonment laws with such amendments as may be suitable.”

The next meeting was fixed for 11-30 A.M. on the 1st of February 1921.

## PART II.

The full Committee met on Tuesday, the 1st February 1921, at Army Headquarters, Delhi.

On assembling, the President pointed out to the members that it must be understood that the proceedings of this Committee are privileged and that publication of any matter discussed, or of any report taken, requires the previous sanction of Government.

With reference to paragraph 1 of Annexure III the Committee welcome the assurance that all municipalities will be fully alive to the conditions necessary for the health and welfare of the troops.

With regard to paragraph 4 of Annexure III, General Charteris explained that Mr. Craik's Committee did not consider that any loss of revenue should be a ground for opposing the transfer of a Sadar Bazaar or of any part of it from a cantonment. They referred to it always as a point only to be borne in mind.

With reference to paragraph 4 of Annexure III, the President pointed out that where Mr. Craik's Committee had stated that taxation levied from Sadar Bazaars should not be spent on the needs of the residents of a cantonment outside the Sadar Bazaar, it seemed to him to have been overlooked as regards some of this taxation (it is of course impossible to estimate the exact proportion) that the ultimate tax-payers are persons living outside the Sadar Bazaar who make purchases from the Sadar Bazaar, or who employ persons residing in the Sadar Bazaar, for such shopkeepers or employees always manage to pass on some of the incidence of taxation. Therefore it has not been essentially inequitable to Sadar Bazaars to spend a portion of the income derived directly from outside the Sadar Bazaar. The above statement of principle was endorsed by the Committee.

It is, however, a fact that the conservancy of Indian troops is at present debited to Cantonment Funds, the sum involved amounting to about 25 per cent. of the expenditure from the Cantonment Fund. In this connection, General Charteris stated that it has been recognized for some years by the Army Department that this is an unfair charge on the Cantonment Fund; and the Army Department are only awaiting a favourable financial opportunity for removing this grievance.

2. The Committee proceeded to consider in detail the question of elective representation. Paragraphs 2 and 3 of Part I of the proceedings of Mr. Craik's Committee, paragraph 6 of Annexure III, and also paragraph 16 (notes on sections 13 to 16 of the Cantonment Code) were read.



It was noted that while Mr. Craik's Committee proposed an official majority of at least 2-3rds, the All India Cantonments Association proposed an elected majority of 2-3rds with, on the other hand, the power of delaying veto in the Officer Commanding the Area or District, and the power of absolute veto in the Command, in certain cases. After discussion, the following proposal was put forward :—

That in self-supporting cantonments (*i.e.*, those which do not receive any financial assistance from the Army Estimates for their normal expenditure), excluding the President, the number of elected members should be 50 per cent. In State-aided cantonments the number of elected members may be reduced, but where the grant-in-aid does not exceed 20 per cent. of the total income, the Committee considered that there would be no ground for reduction. This was agreed to by all except the Hon'ble Khan Bahadur Haroon Jaffer, who desired an elected majority.

It is agreed that the number of members on each Cantonment Committee should be left to the decision of the Local Government, but it is recommended that the number should not ordinarily be less than nine in cases where it is necessary to provide adequate elective representation. It must be left to Government to so frame electorates as to provide for the due representation of all important interests.

The Committee adjourned till Wednesday, the 2nd February 1921.

### PART III.

The full Committee met on Wednesday, 2nd February 1921, and further examined Part I of the Proceedings of Mr. Craik's Committee.

With reference to the question of franchise, the proposal agreed to unanimously by the Committee was as follows :—

“The Committee consider that the analogy of neighbouring municipalities might well be followed in framing rules, fixing the qualifications of candidates for election and of voters, and for elections, suitable modifications being of course made where necessary.”

2. The Committee then considered the question of the trial of criminal and civil cases in cantonments with special reference to the contention that it is objectionable that the Cantonment Magistrate should be placed in the capacity of being an executive as well as a judicial officer with regard to offences against special cantonment laws. The Committee were agreed that it is desirable that offences against cantonment laws should be tried by a magistrate who has no connection whatever with the executive of the Cantonment Committee. The Committee were informed by General Charteris that the present Cantonment Magistrates are generally unable to devote sufficient time to the administration of cantonments owing to their judicial duties, and that it is in the interests of cantonments that they should be relieved of all judicial work, which should be carried out by judicial officers in the Civil Department. The whole Committee strongly recommend this measure. General Charteris further drew attention to the present anomalous position of the Cantonment Magistrate in that he is under the dual control of the military and civil authorities.

General Charteris informed the Committee that the idea contemplated by Army Headquarters is that the present Cantonment Magistrates' Department should merge into a new Lands Branch, the officers being executive officers to the Cantonment Committees. It has not been fully considered as yet whether they should be Secretaries to the Cantonment Board. The Committee welcome this proposal also.

Reverting to the Resolution in paragraph 2 of the Proceedings of January 1st, the Committee consider that, after complete excision, where possible, has been

made, the whole of the remaining cantonment area should be administered by one body, namely, the Cantonment Committee, as at present. The reason for this modification of view is that, with the appointment of an adequate number of elected members, it is hoped that all old grievances will be removed. Further, the multiplicity of organisations is to be deprecated.

With a view to marking the alterations in organization and the introduction of the proposed reforms, it is recommended that the name of "Cantonment Committee" should be changed to "Cantonment Board."

The Committee read paragraph 11 of Colonel Nevill's note,\* and agreed that it is desirable to prepare and maintain a record of rights for cantonments.

Annexure II, Part VIII.

The proposal in paragraph 5 of Part I of the Proceedings of Mr. Craik's Committee was generally accepted.

#### EXAMINATION OF THE CANTONMENTS (HOUSE ACCOMMODATION) ACT, 1902.

The Committee accepted the principle stated in paragraph 7 of Part I of the Proceedings of Mr. Craik's Committee, that houses required for military purposes should be leased by Government for a term of not less than 5 years in lieu of the present system under which the individual officer becomes the tenant. These should be repairing leases, and Government should be responsible for the rent throughout the term. In each lease suitable terms should be settled as regards the upkeep of gardens or compounds.

The All India Cantonments Association recommend that the Act as now amended shall be taken to be the only law that applies to house property in cantonments, and that all existing Army Regulations referring to house property in cantonments shall be deemed to have no force.

As regards Army Regulations, Volume II, Appendix IV, it is admitted that Army Regulations as such have not the force of law. But it may be presumed that the old rules in Army Regulations, India, Volume II, Appendix IV, still have force as regards houses which were subject to them originally. These rules would find a more suitable place as an appendix to the House Accommodation Act. The official members consider that great caution should be exercised in further applying the House Accommodation Act, unless it is amended so as to give full effect to the intention expressed in the preamble of the Act, namely, that houses built on Government military land should be made available when required for the accommodation of military officers. The Act as it stands is defective. In particular, the provisions of section 11 (c), under which no notice can be issued if a house is occupied by the owner, furnish an easy loophole for evasion which may result in an immense and grave restriction in the accommodation available and needed for military purposes.

A strong tendency is apparent for Indians and others to purchase bungalows in cantonments with a view to settling in them under the secure protection of section 11 (c), in cases where bungalows are governed by this section of the Act. In some cantonments, Governments are being rapidly elbowed out of their own area. There is a presumption which is probably un rebuttable, that if the original terms of grant can be found it will be established that practically every house built in cantonments was built subject to the condition of military occupancy. The claim of a house proprietor that he is entitled to sell a house to another person, with a right of personal occupation, represents in almost all cases an encroachment on the rights of the military authorities, and this claim cannot be admitted. Careful enquiry as regards original conditions of grants of sites will, it is anticipated, establish in almost all cases that the condition of military occupation of the house built was imposed. The considerations which have been stated represent the views of the official members, and indicate forcibly the urgency for the preparation of a record of rights, and for the most careful investigation of old grants.

The non-official members were not prepared to concede the Government view, and the discussion was adjourned.

The Committee adjourned till Friday, the 4th February 1921, at 11-30 A.M.

PART IV.

The full Committee met on Friday, the 4th February 1921.

The Committee proceeded to examine further the Cantonments (House Accommodation) Act, 1902, with the following objects :—

- (a) to make it a more efficient instrument for providing accommodation for military officers ;
- (b) to meet, where possible, the objections of the All India Cantonments Association.

1. As regards the preamble, the Committee do not think it desirable to extend the operation of the Act to houses already occupied as offices, or to houses that may be required in the future for office accommodation. The Committee nevertheless recognise the great difficulty felt in certain cantonments in securing office accommodation.

2. *Section 2 (2).*—*Substitute* “Collector” for “District Magistrate.” The last part should read “subject to revision by the Collector, whose decision shall be final.”

3. *Sections 3, 4 and 5.*—The Committee recommend that these sections should remain.

4. *Section 6.*—It was considered that as the Cantonment Authority is to provide the agency for assessing the rental of houses, it should not be also the machinery for requisitioning houses ; the Committee recommend that the “Officer Commanding the Area” be *substituted* for “Cantonment Authority,” and that a definition of “Officer Commanding the Area” be added in section 2.

For sub-paragraph (a) in section 6, the Committee recommend that the following be substituted :—

- “(a) Require the owner to let the house on a repairing lease to Government for a period of not less than five years.”

5. *Section 7.*—The Committee recommend that the procedure contemplated in this section should not be used in the case of any house occupied by a military tenant who has taken the house direct from the landlord. If it is desired to utilize the procedure in such cases then, in the opinion of the Committee, the house should first be requisitioned by Government on long lease in the manner provided by section 6. After it has been so requisitioned, it will be for the Officer Commanding the Area to decide between the claims of officers desiring to occupy the house.

6. *Section 8.*—Sub-section (1), the Committee recommend that this sub-section be repealed.

For sub-section (2), *substitute* a section on the following lines :—

- “The Officer Commanding the Area shall not issue the notice contemplated by section 6 unless he is satisfied :—

- (a) to remain as at present ;
- (b) to remain as at present ;
- (c) omit, a separate section to be inserted to provide machinery for fixing the rental of houses. The Committee are agreed that the subject of growing crops (including grass) at the time of occupation, and fruit trees, will ordinarily require special consideration ;
- (d) remains as at present.”

Explanation I to be omitted.

Explanation II to remain as at present and become Explanation I.

*Section 9.*—The Committee recommend that this section be amended as follows :—

“ Every notice to an owner issued under section 6 shall state that the amount of annual rent will be fixed by a Standing Committee of Arbitration constituted as provided in Chapter IV of this Act.”

Colonel Nevill informed the Committee that the Adjutant-General wished to draw attention to the great difficulty experienced by military officers in certain cantonments in obtaining suitable accommodation.

The difficulty arises mainly from a reluctance of certain Local Governments to apply the House Accommodation Act to cantonments, in part or in whole, when requested to do so, with the result that the primary object of a cantonment as a military reservation is in danger of being overlooked. The Committee consider that the remedy is to be found, not in making the Cantonments (House Accommodation) Act of universal application, but in the issue of directions from the Government of India to local Governments in question, pointing out the difficulties referred to and asking Local Governments to consider all applications for extension of the Act in the light of these difficulties.

The Committee then proceeded with their examination of the Act.

*Section 10 (1).*—Add the words “ civil office ” after “ shop ” and the words “ commercial firm or club ” after “ railway administration.”

(The word “ club ” should include a masonic lodge or a benefit society, and should be so defined in section 2 of the Act.)

“ Officer Commanding the District ” should be substituted for “ General Officer Commanding the Division.”

Also *add* after the section the following :—

“ provided that such sanction shall not be refused if the house has remained unoccupied for the previous nine months unless the Government agrees to take it on a five years’ repairing lease.”

*Section 10.*—Sub-section (2) may be repealed and replaced by regulation or executive orders.

*Section 11 (a).*—Add the words “ civil office ” after “ shop.”

The Committee approve of the principle underlying this section, but consider that it requires redrafting to make it clearer that the occupation which cannot be disturbed must be as a hospital, bank, hostel, shop, civil office or school. As the section stands at present, it might be read as if providing that any occupation would exempt the house from requisition under section 6.

*In sub-section (b).*—Add “ commercial firm or club ” after “ railway administration.”

*Sub-section (c).*—The question of amending this section was again discussed. It was considered that the amendment should take the form of the addition of a proviso on the following lines :—

“ That where a house, which is not subject to the condition of requisitioning by Government, changes hands by alienation, then Government, if it thinks fit, may insert in the title of the new owner this necessary condition, and the previous owner or estate should then be compensated by Government for any loss in the estimated capital value at the time of sale which may result from the imposition of this restriction. But, on the death of an owner occupying a house with the right provided by this section, his successor will be entitled to retain this right in regard to that house only, and not in more than one house in the deceased’s estate.”

This was accepted by all members except the Hon’ble Khan Bahadur Haroon Jaffer, who stated that the proposal seemed to him to contain the best possible compromise, but requires further consideration.

It appears to the Committee that it is important to obtain early information showing for each cantonment how many houses are at present subject to the right of requisition by Government under section 4 of the House Accommodation Act or otherwise, and how many are occupied by owners under the protection of section 11 (c), or are liable to be alienated by owners with this protection. The information cannot be absolutely accurate until a detailed enquiry has been made by the proposed Lands Branch, but it will make the present position fairly clear.

*Sub-section (d).*—For “General Officer Commanding the Division” substitute “Officer Commanding the District.”

*Section 12.*—Remains as it is, except that for the words “proposed tenant,” substitute “lessee” (i.e., Government).

*Section 13.*—For “proposed tenant” substitute “lessee” (i.e., Government), and for “Cantonment Magistrate” substitute “senior magistrate exercising jurisdiction within cantonment limits.”

*Section 14 (1).*—The Committee think that this section should remain unaltered, but recommend that it should be the general policy of Government, in case where this section is operative, to purchase the house whenever possible.

*Sub-section (2).*—For the words “a Committee of Arbitration,” substitute “the Standing Committee of Arbitration constituted as provided in Chapter IV.”

*Section 15 (1).*—Remains unaltered, except that “District” should be substituted for “Division.”

*Sub-section (2).*—The meaning is obscure, and the Committee consider it would be clearer if the words “for the rent payable under this Act, or if no rent is so payable” were omitted. Government must rely on the words “in good faith” in the section to protect it from collusive or fraudulent leases.

*Sub-section (3).*—Remains unaltered.

*Sub-section (4).*—For “Cantonment Authority” substitute “Officer Commanding the Area,” and for “fifteen days” substitute “one month.”

*Section 16.*—The Committee consider that this section should be retained to cover the cases of houses that are at present leased direct by the owner to military officers and that will continue to be so leased. This section will not apply to houses appropriated under the new section 6.

*Sub-section 16 (1) (a).*—Substitute “the Standing Committee of Arbitration as constituted under Chapter IV” for “a Committee of Arbitration.”

*(b) and (c).*—Remain unaltered.

*Sub-section (2).*—For “Cantonment Magistrate” substitute “Cantonment Lands Officer.”

*Sub-section (4).*—This may be omitted from section 16 and a corresponding sub-section be inserted in section 12, providing that, in cases when the machinery of section 6 is employed and Government becomes the tenant, its tenancy shall be deemed to commence on the date on which the house is vacated.

*Section 17.*—Insert the words “in writing” after “consent.” After “consent in writing of the owner” add “and the Cantonment Authority,” and add at the end of the section the words “the consent of the owner shall not be withheld without reasonable ground, and such sub-letting shall in no case exceed the term of the primary lease.”

*Section 18.*—The Committee recommend that the whole of this section should be repealed.

*Section 19 (1).*—It should be made clear that this and the three subsequent sections do not apply to houses appropriated under section 6, but only to houses leased direct by the owners to military officers. For the words “Cantonment Authority” substitute “Officer Commanding the Area.”

*Section 19 (2).*—Substitute “Officer Commanding the Area” for “Commanding Officer of the Cantonment” and for the words “Committee of Arbitration” substitute “Standing Committee of Arbitration as constituted under Chapter IV.”

*Section 20.*—Substitute “Officer Commanding the Area” for “Commanding Officer of the Cantonment” and for “Committee of Arbitration” substitute the words “Standing Committee of Arbitration as constituted under Chapter IV.”

*Section 21.*—The same alteration as in section 20.

The Committee think that in any case of a dispute of the nature contemplated in sections 19, 20 and 21, the owner should have the option of either:—

- (a) demanding a reference to the Standing Committee of Arbitration, as provided in the existing Act, or
- (b) demanding that Government should take his house on a repairing lease for not less than five years, or purchase it at a valuation to be determined by the Standing Committee of Arbitration, or
- (c) that the military tenant should vacate it.

Government should be compelled to comply with one of these three demands.

A new section to this effect might be inserted after section 21.

*Section 22.*—The Committee foresee certain difficulties in the recommendations of Mr. Craik’s Committee. They think the best solution to the question would be for Government to advance to the Military Works Services, or Public Works Department, the amount necessary for repairs and recover the same from the owner by deductions in the rent; such recovery not to exceed  $\frac{1}{2}$  of the monthly rent per month. Interest on the advance should be charged at Rs.  $6\frac{1}{2}$  per cent., per annum.

*Section 23.*—For “Cantonment Magistrate” substitute “Cantonment Lands Officer.”

#### NEW CHAPTER IV.

##### *Standing Committees of Arbitration.*

The Committee consider that sections 24, 25, 28, 29 and 33 should be repealed and that provisions on the following lines should be substituted:—

The first section of Chapter IV should be as follows:—

“In every cantonment to which this Act has been applied there shall be appointed a Standing Committee of Arbitration appointed triennially which shall decide:—

- (a) in any case in which a house is requisitioned under section 6, the amount of annual rental payable to the owner. The rent so fixed shall be revised by the Standing Committee at the expiration of each period of five years from the commencement of the lease;—
- (b) in every case in which a house is sold under the provisions of section 14, the amount of the purchase money;
- (c) on reference being made to it under section 19 (2), whether any repairs demanded by a tenant are or are not necessary and within what period such repairs are to be executed;
- (d) on reference being made to it under section 20 read with section 16 (1) (a), whether a house has or has not become unfit for occupation;
- (e) on reference being made to it under section 21, the amount of rent payable by the tenant to the owner;
- (f) in the event of any repairs to a house being executed by the Military Works Services, or Public Works Department, as provided in section 22, by what amount the rent payable by the tenant to the owner shall be reduced and for what period.”

The second section of Chapter IV should run :—

“ Every Standing Committee of Arbitration should consist of :—

- (a) a Chairman, who shall be the District Magistrate or if the District Magistrate is unable to act on the Committee some magistrate, being a Justice of the Peace or magistrate of the first class, and not being the Cantonment Magistrate, appointed by the District Magistrate to act in his stead ;
- (b) two members appointed by the Officer Commanding the Area. One of these members should, whenever possible, be an engineer officer ;
- (c) two arbitrators chosen by all the elected members of the Cantonment Authority. These arbitrators need not necessarily be members of the Cantonment Board. One of them should be a house-owner in the cantonment.

The third section of Chapter IV should be as follows :—

“ The Chairman and at least two other members shall constitute a quorum for the disposal of business, provided that, if in the opinion of the Chairman, the disposal of business is being deliberately delayed by the failure or neglect of one or more members of the Committee to attend, the Chairman may nominate one or more members to act on the Committee at the meeting in question in place of the absent member or members.”

Also *add* “ the proportion of elected and non-elected members and the inclusion of a local house-owner should be maintained.”

If any of the arbitrators should have an interest in the matter in dispute, the Chairman shall nominate another arbitrator of the same class in his place and, preferably, an elected member.

*Section 26.*—This should be retained in the following form :—

“ Where a requisition is made to the Officer Commanding the Area by the tenant of a house, being a military officer, under section 20 or section 21, the Officer Commanding the Area may refuse to refer the matter to the Standing Committee of Arbitration on the ground that the application therefor is groundless or frivolous.”

*Section 27* should be amended as follows :—

- “ (1) Where a reference is to be made to the Standing Committee of Arbitration, the Officer Commanding the Area shall cause an order to be published in Station Orders, stating the matter to be determined, and a copy should be sent to the Secretary, Cantonment Board.”
- “ (2) The Secretary, Cantonment Board, shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and shall also cause a copy of the order to be published on the notice-board at the Cantonment Magistrate's court house and on the notice-board at the District Magistrate's or sub-divisional magistrate's court house, as the case may be. He shall also inform the Chairman and members of the Standing Committee of Arbitration of the matter referred to it, and the Committee shall meet as soon as may be thereafter.”

*Section 30 (a)* should be retained in the following form :—

“ The Standing Committee of Arbitration shall have power to receive evidence and to administer oaths to witnesses, and the Cantonment Magistrate shall issue the necessary processes for the attendance of witnesses and the production of the documents required by the Standing Committee, and may enforce the said processes as if they were processes of attendance before himself.”



Provision should further be made entitling the owner or tenant to appear before the Standing Committee, either personally or by a representative and to be heard. This is already provided for in rule 13 of the rules made under the existing Act, but the Committee think it would be better if a clause to this effect were included in the body of the statute.

*Section 31* should run :—

“ The Chairman of the Standing Committee of Arbitration shall fix the time and place of the meeting and shall have power to adjourn the meeting from time to time as may be necessary.”

*Section 32* should be retained, with the insertion of the word “ Standing ” before “ Committee,” and should come after section 14. Reference to section 7 may be omitted.

*Section 33* will no longer be required and may be omitted.

*Section 34* should be amended as follows :—

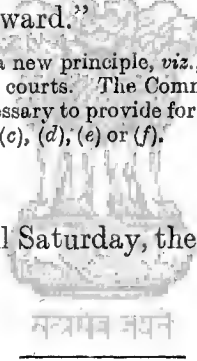
“ (1) The decision of every Standing Committee of Arbitration shall be in accordance with the majority of the votes of the members present at the meeting.”

“ (2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.”

“ (3) The decision of the Standing Committee of Arbitration shall be final, subject to the right of any party, dissatisfied with the decision of the Committee on a matter referred to it under section 24 (a) or (b), to institute a suit in the civil court within two months of the date of the delivery of the award.”

*Note.*—This sub-section (3) introduces a new principle, viz., the right of appeal in certain cases from the Standing Committee's decision to the civil courts. The Committee think this will be acceptable to house-owners generally. They do not think it necessary to provide for such an appeal in the case of matters referred to the Standing Committee under section 24 (c), (d), (e) or (f).

The Committee adjourned till Saturday, the 5th February 1921, at 10-30 A.M.



## PART V.

The full Committee met on Saturday, the 5th February 1921, at Army Headquarters, Delhi.

*Section 35 (1).*—*Substitute* “ Officer Commanding the District ” for “ Officer Commanding the Division.” The Committee recommend that in case the Officer Commanding the District is the authority for passing the original notice issued under section 6, an appeal should be allowed to the next higher authority.

*Section 35 (2).*—Remains unaltered.

*Section 36 (1).*—Remains unaltered.

*Section 36 (2).*—*Substitute* “ Officer Commanding the Area ” for “ Cantonment Authority,” and *substitute* “ Officer Commanding the District ” for “ Officer Commanding the Division.”

*Section 36 (3).*—The same changes.

*Section 37.*—*Substitute* “ Officer Commanding the District ” for “ Officer Commanding the Division.”

*Section 38.*—The Committee think that this section might be repealed, as at present it gives the owner power of postponing action indefinitely. Under the new section 6, the Officer Commanding the Area will requisition a house for a term of not

less than five years and will make Government liable for the rent for that period. It may be assumed that he will not issue a notice under this section without due care, and if the house is occupied, the occupier has 30 days to vacate. [See section 12 (2).] (The draftsman should consider whether a clause is required providing that action on a notice shall not be postponed pending an appeal.)

*Note.*—The Committee notice that under the present Act, the owner whose house is let on a registered lease, can appeal only to the Officer Commanding the Division (i.e., the District). That authority's sanction to the issue of the notice must have been obtained in advance, under section 15. The Committee, however, do not think that any amendment of the law is required.

#### CHAPTER VI.

*Section 39 (1).*—Substitute “Lands Officer” for “Cantonment Authority” and for the words “the rent payable by such officer under this Act” substitute “the rent payable by the tenant under this Act.”

*Section 39 (2), (3) and (4).*—For these sub-sections substitute the following:—

“The rent shall be paid to the owner by or under the orders of the Officer Commanding the Area on or before the 15th day of each calendar month.”

*Section 40.*—Substitute the words “by registered post, acknowledgment due” for “by post.”

*Section 41 (2) (b).*—The Committee gave the question of rents of houses in cantonments their due consideration and agreed that definite principles should be laid down for the observance by Standing Committee of Arbitration when determining the amount of annual rental of houses in cantonments.

The following proposal was put forward by General Charteris with a view to the substance of the draft becoming section 41 (2) (b) of the Act.

“A house-owner should receive, as a minimum, a fair return on the initial expenditure on his building.

To this minimum should be added:—

- (i) a proportion to represent the general increase in the value of house property. The increase should be based on the annual value of the building, apart from the actual site, the site being in almost all cases the property of Government;
- (ii) an allowance for repairs which should be based upon the increased cost of labour obtaining at the time as opposed to the cost of labour at the time the house was built.”

*Note.*—The experience of the Public Works Department and Military Works Services in 1921 is that 2½ per cent. on the original value of houses built prior to 1914 is generally fair, and 1½ per cent. on buildings built subsequent to 1914.

The official members accepted this proposal.

Mr. Cotelingam and Khan Bahadur Adamji were prepared to accept the proposal provided that the minimum rent is not less than the present rent registered in the office of the Cantonment Authority.

Lala Narain Das will file a note of dissent.

The Hon'ble Khan Bahadur Haroon Jaffer is unavoidably attending the Council of State at this stage.

The Committee unanimously record that the revision of rent is a matter of urgency as the present rents do not generally represent the present fair market value of the houses.

The following addition was recommended as section 41 (2) (c):—

“Section 41 (2) (c).—prescribe a form or forms of repairing leases in the case of houses requisitioned by Government.”

The present sub-section 2 (b) should become (d).

*Section 42 (1).*—The Committee consider that previous publication of rules made under section 41 is desirable.

*After the word "until" add " a month after the date of their publication in the Gazette of India and Local Government Gazettes, whichever is latest. Such draft rules shall be communicated to the Cantonment Committee, and be laid before the members at the earliest meeting."*

*Section 42 (2).*—Remains unaltered.

*Section 42 (3).*—For "Cantonment Authority" substitute "Cantonment Board."

*Section 42 (4).*—Remains unaltered.

*Section 43.*—No change.

*Section 44.*—No change.

*Rules made under the Cantonments (House Accommodation) Act.*

*Rule 1.*—Remains unaltered.

*Rule 2 (b).*—After the word "newspaper" add the words "within the Command."

*Rule 3.*—Remains unaltered.

*Rule 4.*—For "Cantonment Magistrate" substitute "Secretary, Cantonment Board."

*Rule 5.*—Remains unaltered.

*Rule 6.*—Remains unaltered.

*Rule 7.*—Remains unaltered.

*Rule 8.*—After the word "Chairman" add the following words:—

"and the members of the Committee."

*After the end of the Rule add—*

"The dissent of any member from any decision of the Standing Committee of Arbitration, with his reasons therefor, shall, if the member so requests, be attached by the Chairman to the proceedings."

*Rules 9, 10 and 11.*—Remain unaltered.

*Rule 12.*—The Committee recommend that this rule may be repealed as it is already provided for in the Act.

*Rule 13.*—The Committee think that this should be repealed and its place taken by a section in the Act.

*Rule 14.*—For "Cantonment Magistrate" substitute "Secretary, Cantonment Board."

*Rule 15.*—Remains unaltered.

*Rule 16.*—Omit the reference to section 39 (4) which will be repealed.

*Rule 17.*—Remains unaltered.

*Schedule A, Forms 1 and 2.*—These forms will require amendment so as to bring them into conformity with the Act as amended.

New rules will be required under section 41 (b) and (c). The framing of these rules and the drafting of a form of lease is a matter for experts.

The Committee adjourned till Monday, the 7th February 1921, at 10-30 A.M.

PART VI.

The full Committee met on Monday, the 7th February 1921, at Army Headquarters, Delhi.

With reference to the proceedings of the Committee for the 5th February on the subject of section 41 (2) (b), the Hon'ble Khan Bahadur Haroon Jaffer states his view that 10 per cent. of the present market value of houses in cantonments should be taken at once as the basis of the determination of their rent. Further he considers that the present registered rents should not be reduced under any circumstances.

Khan Bahadur Adamji also files a note on the rent question which will form a part of this day's proceedings.

The points raised by the Hon'ble Khan Bahadur Haroon Jaffer and Khan Bahadur Adamji were considered fully at the last meeting and further discussion is not considered likely to be fruitful of result.

The Committee proceeded to examine the Cantonments Act of 1910 and were of opinion that only a few changes were necessary.

*Section 15.*—Should be amended so as to provide that Local Governments can impose taxation only on the recommendation of the Cantonment Authority, on the analogy of taxation in municipalities.

*Section 19 (2).*—As the Cantonment Fund no longer contributes towards the maintenance of the police force employed in the cantonment, all reference to this force should be omitted from the sub-section.

*Section 21.*—After some discussion, the Committee agreed that the section as it stands in the Act should remain, with the exception of the substitution of "Cantonment Board" for "Cantonment Authority."

*Section 23.*—For the words "in British India" substitute the following:—

"within the territories administered by the Government of the Province in which the said cantonment or the part of it lies."

*Section 24.*—The Committee recommend that all rules incorporated in the Cantonment Code of 1912 that are of general application should, as far as possible, be embodied in the Cantonments Act of 1910 when revised.

After a lengthy discussion of section 24 (23) and of section 216 of the Cantonment Code, the Committee adjourned till Tuesday, the 8th February 1921, at 10-30 A.M.

*Note by Khan Bahadur Seth Adamji Mamooji.*

The principle of assessing the rental of houses laid down in the proceedings of the 5th instant seems to me on reconsideration of the same a very complicated and tedious one, though not wholly impracticable. In theory the principle looks alright, but when carried into practice, it would involve much time and trouble and may sometimes create unpleasantness and be a source of friction and consequent litigation. To save time and guard against possible trouble and litigation and in the interest of smooth work, the principle laid down for determining the amount of increase in the rental for each house must be one that is fair to both parties, simple, and thoroughly workable. I would therefore suggest that this conference, after taking into due consideration the present state of labour and prices of building materials, may fix such percentage for increase of rentals of bungalows all round which may after deducting all cost of repairs, pay to the owners the same return on their outlay which they used to get before the war. The Military Works Services and Public Works Service data of repairing expense of 1½ and 2½ per cent. cannot be applied to the repair of bungalows because the conditions of maintenance of bungalows in cantonments are quite different from those of the Government buildings. In my opinion the repairing cost of bungalows could not be less than three per cent. before war and six per cent. after the war on the outlay of the bungalows. With this explanation I propose that instead of adopting a lengthy process of doubtful practicability recommended by the Committee, a general increase in the present registered rentals of all houses built before the war immediately be allowed at the rate of at least 50 per cent. all round.

## PART VII.

The full Committee met on Tuesday, the 8th February 1921, at Army Headquarters, Delhi.

The Committee continued to consider and discuss the provisions of section 216, Cantonment Code of 1912. They were of opinion that the section gives a very necessary power to the Officer Commanding the Cantonment and they fully supported the recommendation of Mr. Craik's Committee that the section should be retained. As regards regimental lines and bazaars situated within those lines, the official and non-official members were agreed that the existing provisions of the section, without any change, should be maintained.

With respect to areas outside regimental lines and regimental bazaars situated within the lines, the official members of the Committee were inclined to think that some amendment to the existing provisions of section 216, Cantonment Code, is desirable. They considered that the person against whom an order is made under section 216, Cantonment Code, should be given an opportunity by the authority issuing the expulsion order of showing cause against it. The Officer Commanding the Cantonment, when such person appears before him, should explain the case against him. This would not give the person affected the right to call evidence before the Officer Commanding. But, in order to give to the person so affected a further opportunity of defending himself, the Committee were of opinion that he should have the right to ask for an enquiry by the District Magistrate before whom he would be entitled to be represented by counsel. He would also have the right to produce evidence if the District Magistrate, after hearing the evidence offered by the Officer Commanding, found that there were *prima facie* grounds for the order of expulsion. The expulsion order would be given effect to pending the result of the enquiry, unless the Officer Commanding the Cantonment agreed to postponement. The whole proceedings of the District Magistrate, together with his order, should then be submitted to the Command for final orders.

In the opinion of the official members this proposal is a great concession, and goes much further than that of Mr. Craik's Committee.

The non-official members support a proposal filed by Messrs. Adamji and Narain Das, which embodies the provisions of section 216, with limitations, in section 215. This proposal makes an order of expulsion in all cases subject to previous enquiry and limits it to certain contingencies. The Hon'ble Khan Bahadur Haroon Jaffer states he would prefer that sections 215 and 216 should be deleted as he considers that the general laws of the country are adequate.

*Section 24 (27).*—It is considered that just as an agent is acceptable if he lives near a cantonment, the owner should be eligible to act for his own property if he resides near a cantonment.

No agent will be required in the case of houses which have been taken on five years' leases.

*Section 25 (1).*—The official members consider that it is desirable to retain this sub-section as it stands. The All India Cantonments Association make the following recommendations:—

“ That all draft rules should be published in the *Gazette of India* and Local Government Gazettes and in all the principal newspapers at least three months before they are considered, to enable the residents of cantonments to submit their views about the draft rules, and that they should then be republished in the form in which they have been finally passed.

*Section 25 (4).*—The non-official members consider that imprisonment should be given only in case of default. The official members feel that they cannot express any opinion until they have examined the Cantonment Code.

*Section 28.*—The non-official members recommend the deletion of the words “ whether the thing done was or was not authorised by the powers so conferred.”

The official members think it desirable that the present sub-section 28 should be retained as it stands.

*Section 29 (2).*—For “Cantonment Magistrate” substitute “Lands Officer” provided that such an authority is created.

The Committee adjourned till Friday, the 25th February 1921.

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*Proposal of Messrs. Adamji and Narain Das.*

*Section 215.*—To be substituted for “215 and 216.”

*Section 215 (1).*—A first class magistrate exercising criminal jurisdiction in a cantonment may on receiving a report or information from the Officer Commanding the Area, that any person whether resident in or frequenting the cantonment:—

- (a) is a disorderly person who has been convicted more than once of gambling, or
  - (b) has been convicted more than once, either within the cantonment or elsewhere, of an offence punishable under Chapter XVII of the Indian Penal Code, or
  - (c) has been convicted, either within the cantonment or elsewhere, of any offence punishable under section 156 of the Army Act, or
  - (d) has been ordered more than once, under Chapter VIII of the Code of Criminal Procedure, either within the cantonment or elsewhere, to execute a bond for good behaviour, or
  - (e) is a prostitute or “*Hijra*,” or
  - (f) tampers with the loyalty (by actual contact) of troops,
- issue a summons requiring the person to show cause why he should not be required to remove from the cantonment and be prohibited from re-entering it.

(2) To remain.

(3) If the Magistrate after a judicial trial in which all the evidence produced by the person shall be taken, finds the person coming under clauses (a), (b), (c), (d) and (e) or guilty of the offence stated in clause (f), he may direct the person, by an order in writing, to remove from the cantonment within the time to be specified in the order and not to re-enter it without the permission of the Officer Commanding the Area, provided that the case of a person charged under clause (f) the judicial enquiry will be conducted by the District Magistrate, and provided also that the Officer Commanding the Area may order the removal from the regimental lines of any person whose presence is deemed to be opposed to the interests of military discipline with or without assigning any reasons.

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PART VIII.

The full Committee, with the exception of Khan Bahadur Adamji, met on Friday, the 25th February 1921, at Army Headquarters, Delhi, and proceeded to examine the Cantonment Code of 1912.

*Section 2 (2).*—For “Cantonment Authority” substitute “the Senior Magistrate exercising jurisdiction in the cantonment.”

*Section 3 (1).*—The following redraft is suggested to meet the altered conditions consequent on the partial introduction of the elective system:—

For every cantonment with respect to which the Local Government has determined that a Cantonment Board is to be instituted, the Local Government shall fix the number of members of such Board and shall determine how many of these shall be elected.

The Cantonment Board shall, as a rule, consist partly of nominated and partly of elected members. In self-supporting cantonments (*i.e.*, those which do not receive financial assistance from the Army Estimates for their normal expenditure), excluding the President, the number of elected members shall be 50 per cent. In State-aided cantonments the number of elected members may be reduced, but where the grant-in-aid does not exceed 20 per cent. of the total income there would ordinarily be no ground for reduction.

In fixing the number of elected members in State-aided cantonments, the Local Government may also have regard to the extent of the relative importance of the interests of the civil population, including private house-owners, provided that the percentage of 50 per cent. of elected members shall not be exceeded.

For each Cantonment Board, the Local Government will name the nominated *ex-officio* members, and determine the number to be nominated by the Officer Commanding the District or Area.

Nominated members shall ordinarily consist of the following, or be selected from the following, if the total strength of the Board, or other circumstances, do not permit of the inclusion of the full number :—

- (a) *Substitute* " Area, District or Command " for " Division or Brigade " and " competent military authority " for " Officer Commanding such Division or Brigade."
- (b) *Substitute* " The District Magistrate, or in his absence, a magistrate of the 1st class appointed by the District Magistrate to represent him."

Omit proviso to (b).

The present (c) will become (i).

- (c) The Cantonment Lands Officer (or officer corresponding to this).
- (d) The Health Officer.
- (e) The Executive Engineer.
- (f) The Superintendent of Police, or in his absence, the Deputy Superintendent of Police, where this is deemed necessary.
- (g) The Senior Executive Medical Officer in military employ on duty in the cantonment.
- (h) The medical officer in charge of the cantonment hospital or dispensary, if a commissioned officer.
- (i) Such Commanding Officers of units or depots residing in the cantonment as may be appointed by competent military authority.
- (j) Any residents in the cantonment, whether officials or non-officials, if the competent military authority thinks it necessary to represent interests not otherwise represented.

The Hon'ble Khan Bahadur Haroon Jaffer adheres to his desire to have an elected majority.

*Section 3 (2).*—For " Cantonment Magistrate " substitute " Lands Officer ".

*Section 3 (3).*—As regards the Secretary of the Board the official members of this Committee think that he should be the Cantonment Lands Officer where there is one, or some other officer of corresponding position in smaller cantonments.

Lala Narain Das and the Hon'ble Khan Bahadur Haroon Jaffer urge the importance of having a paid secretary appointed by the Committee, and suggest that the Lands Officer might be the President.

The Committee agree that there should be a Vice-President elected by the Board.

The Hon'ble Khan Bahadur Haroon Jaffer recommends that the Vice-President should be an elected member.

*Section 7 (1).*—Add a proviso that the President shall summon an emergent meeting when required to do so by written request signed by at least one-third of the members of the Board.

*Section 7 (2) and (3) (a).*—In place of “ three ” *insert* “ seven.” But for an emergent meeting three days' notice shall be given.

(b) No decision shall be arrived at by circular reference unless every member agrees to this course in each particular case.

*Section (4)*—Omit the words “ unless a majority ” ..... down to.....  
“ latter meeting.”

*Section 8.*—For “ six ” substitute “ seven.”

*Section 12 (3).*—Add after “ therefor ” “ or minute of dissent supplied by the member.”

*Sections 13—16.*—Powers of control are now vested in an excessive number of authorities. It would, in the Committee's opinion, be sufficient to give the Officer Commanding the Area power to refer any question, on which he disagrees with the decision of the Cantonment Board, to the Officer Commanding the District or Command, as the case may be, and the Officer Commanding the District or Command could then, by order in writing, order the suspension of action for such period as may be stated in his order. If the District Magistrate disagreed with any decision of a Cantonment Board as being prejudicial to public health, safety or convenience, he could represent the matter to the Local Government. The Local Government would thereupon call the attention of the Officer Commanding the District or Command to the matter. In urgent cases where the public safety is concerned, the Local Government should retain the power to suspend action on the Board's decision.

With this exception, the right to modify or cancel any decision of the Cantonment Board should be vested only in the Officer Commanding the District or Command as the case may be. It is not necessary to give the Local Government power to modify or cancel a decision. The Local Government's power to refer to the Officer Commanding the District should ordinarily be sufficient.

It will, however, be necessary to define in the Code the functions and duties of the Cantonment Board. These should be purely executive and any judicial or magisterial functions assigned to them by the existing Code should be abrogated.

The Committee then considered a proposal by Lala Narain Das with regard to the provision of section 216, Cantonment Code, and the discussion of the 7th and 8th February with a view to arriving at a compromise. He suggests that in cases under clause 215 (f) of his note already attached to Part VII of the Proceedings of this Committee, the District Magistrate should have the power of expulsion pending enquiry, instead of the Officer Commanding. The official members of the Committee regret that they cannot accede to this proposal.

The Committee welcome the information given by General Charteris that executive orders have now issued to Commands that the expelling authority should immediately inform both the District Magistrate and the Local Government of his action, with the reasons therefor.

*Section 17 (1).*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.”

*Sub-sections (2), (3) and (4)* are superfluous.

*Section 19.*—Substitute “ Secretary, Cantonment Board,” for “ Cantonment Magistrate.”

*Section 20.*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.” The section should run :—

(a) Appoint, according to the sanctioned scale, all servants required by the Cantonment Authority drawing a salary not exceeding Rs. 25 per mensem. All higher appointments should be made by the Cantonment Authority.

(d) Deal with applications for leave of absence of servants drawing a salary of not more than Rs. 25, per mensem. In all other cases, the Cantonment Authority will dispose of such applications.



*Section 21.*—Substitute “Secretary, Cantonment Board,” for “Cantonment Magistrate” and after the word “salary” add the following :—

“a servant of the Cantonment Authority drawing pay not exceeding Rs. 25, per mensem. In the case of servants drawing a higher rate of pay such action will be taken by the Cantonment Authority.”

In the second proviso, substitute “Secretary, Cantonment Board,” for “Cantonment Magistrate” and add the words “ordered by him” after the proviso.

*Section 23.*—The Committee recommend that the punishment be reduced to 14 days’ imprisonment or a fine not exceeding Rs. 25.

*Section 24.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

The Committee think that a clause should be provided as follows :—

“The clerical staff of Cantonment Committees should be liable to transfer to cantonments within the district.”

*Section 28.*—Should be in the Manual, not in the Code.

*Section 29 (b).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 29 (f) (ii).*—This has given rise to some confusion in the past, but the Committee think that the Code, as it now stands, makes expenditure on the lighting, watering and cleansing of all streets a legitimate charge against the Cantonment Fund, and they think this should be maintained, and the sub-section requires no alteration. But if the Cantonment Fund does in fact light, cleanse and water streets maintained for purely military purposes (e.g., a road leading to a fort, arsenal, barracks, or Supply and Transport godowns), then the grant-in-aid to the Cantonment Fund should be increased proportionately, or a grant should be made by the Department concerned.

*Section 29 (g).*—Add after “schools” “other charitable public institutions.”

*Section 29 (j).*—As a matter of practice the only “classes of troops for whom conservancy is provided from public revenues” are British troops. In the opinion of the Committee this is illogical ; it is the duty of Government to provide conservancy for all classes of troops, units and formations, in a cantonment.

*Section 29 (2).*—This merely repeats section 19 (2) of the Act and is therefore superfluous. A clause should be added to this section providing that a minimum proportion of the income derived from taxation should be allotted to education in cantonments ; such proportion being that which obtains in the municipalities of the province.

*Sections 30 and 31.*—No change except “District” for “Division.”

*Section 32 (3).*—This should now run :—

“The Officer Commanding the Area shall scrutinize the budget estimates and submit them to the Officer Commanding the District.”

*Section 32 (4).*—For “Division” substitute “District.”

*Section 33.*—In (1) (b), omit words “with the previous sanction” . . . . . down to . . . . . “as the case may be” and omit “or from one major head to another.”

*Section 33 (2).*—This should run as follows :—

“A copy of every order made under sub-section (1) (b) shall be sent by the Secretary, Cantonment Board, to the Officer Commanding the Area”

The proviso is redundant and should be omitted.

*Section 34 (b).*—For “Officer Commanding the Division” substitute “Cantonment Authority.”

*Section 36 (2) (ii).*—Add “or Vice-President.”

*Note.*—Much of Chapter IV might, in the opinion of the Committee, be removed from the Code and put in a chapter of a new Cantonment Accounts Code, when prepared.

*Section 59.*—May be omitted altogether—*vide* proposed amendment of section 15 of the Cantonments Act, 1910.

Major Knowles raised the question whether this chapter, read with Home Department Resolution No. 713-34, dated the 2nd June 1913, sufficiently provided for the case of all contracts made by the Cantonment Authority, *e.g.*, those relating to lands outside the cantonment placed under the management of the Cantonment Committee. Another point is that the Home Department Resolution does not specifically refer to section 60 of the Code, and therefore covers the case of all contracts relating to Government land within cantonments, whether made by the Cantonment Authority or by a military department in occupation of the land. The result is that the resolution directs that the Secretary of the Cantonment Committee can alone execute contracts for such lands, even though the lands be not under the management of the Cantonment Committee.

The question whether section 60 of the Code or the Home Department Resolution, or both, require amendment is one that should be referred for the advice of the Legislative Department.

*Section 67 (1).*—Delete the punishment of imprisonment.

*Section 67 (1) (b) (f).*—For “Cantonment Authority” substitute “Secretary, Cantonment Board.”

*Section 67 (o) and (p).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 68 (3) (a).*—Omit the words “destroy or”

*Section 69 (e).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 72.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 73 proviso.*—Substitute “Secretary, Cantonment Board,” for “Officer Commanding the Division.”

*Section 74.*—Should be omitted from the Code and published as a bye-law.

*Section 74.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.” The following parts of section 77 should be transferred to section 78 :—

(a) (i), (d) (ii) and (e) in so far as it refers to altering the drain only.

*Section 82.*—For “Division” substitute “District.”

*Section 83.*—The only change suggested here is in the constitution of the special committee. This Committee think that there should be an elected member of the Cantonment Board in addition to the Civil Surgeon.

*Section 85.*—This section seems to have been the subject of much controversy in the law courts. It has been ruled by a High Court that a building need not necessarily be insanitary by reason of its ill construction or dilapidation. In actual practice, moreover, the section serves no useful purpose. In most, if not in all, cantonments bazaar buildings are occasionally found in a ruinous state, *e.g.*, a broken-down mud wall, the removal of which is the only possible remedy. The present section gives no power to direct removal. The Committee consider that the section should contain a provision for the removal of such dilapidated buildings, when necessary, for reasons of health, on payment to the owner of compensation. In lieu of the present section they think two separate sections are required :—

(a) to enable cantonment authorities to enforce repair or alteration to dilapidated buildings, whether situated within or without bazaar limits. This is already provided for in section 97, but it is to be remarked that section 97 is badly drafted.

Section 97 should be enlarged so as to include buildings which, owing to their condition, are liable to be used as latrines or otherwise defiled,

and to make the owners liable to take such steps with them as will prevent their liability to be used in this manner.

- (b) to enable the military authorities, where Government owns the land, to resume sites occupied by buildings in a ruinous state, wherever situated, on payment of compensation, where the owner has failed within a reasonable time to repair them.

*Section 85.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 86 (2).*—Delete “the punishment of imprisonment.”

*Section 98.*—Substitute “Cantonment Authority” in place of “Cantonment Magistrate.”

*Section 100.*—Substitute “Secretary, Cantonment Board,” for “Cantonment Magistrate.”

*Section 101.*—The power here vested in the Commander-in-Chief seems unnecessary. In the opinion of the Committee the Cantonment Board is the proper authority to decide such matters, subject to the previous sanction of the Officer Commanding the Area, the object of reference to a higher authority being to prevent erratic action on the part of the local authority.

*Section 102 (1) and (2).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 103 (a) and (b).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 105.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.” The Committee consider that the first notice should be issued by the Secretary, Cantonment Board, but that the subsequent notice in writing to restore the land to its former state should be issued by the Cantonment Authority.

*Section 108 (1) (a) and (d).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 109.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 111.*—It is for the draftsman to consider whether the Act of 1867 might not be repealed.

*Section 112.*—This section requires to be amplified and made clearer to provide for the following matters:—

- (a) Exemption from its provisions of sites where tents are pitched for soldiers, segregation camps, etc., and also sites occupied by subordinate officials of military departments.
- (b) The imposition of a fee on the same lines as in section 89, in return for conservancy services.

The Committee are further of opinion that the Secretary, Cantonment Board, should have power to select the site, grant permission for occupation, and determine the amount of the fee.

Section 273, Indian Penal Code, seems wider in terms, but offences under it cannot be tried summarily.

*Section 117.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 120 (a), (b), (c) and (d).*—Might be omitted. These duties imposed on the owner of a private market could more conveniently be included in the conditions of his licence under section 173 of the Code.

*Section 121 (1).*—For the words “sections 114 and 120” in the second line, substitute the words “section 114 or any conditions of his licence under section 173.”

*Section 122.*—Omit. This appears to be a matter of office routine work.

*Section 124 (1).*—For “Cantonment Magistrate” substitute “Cantonment Authority.”

*Section 124 (2) (ii).*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 124 (3).*—Repeal. The Committee think that fees should be charged for licences on the same lines as in section 129.

*Section 129.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 132 (a) to (f).*—These conditions might be more conveniently embodied in the conditions of licences under section 173.

*Section 134 (a), (b) and (c).*—This would appear to be a matter of routine work and might be omitted from the Code.

*Section 137 (1).*—Substitute “Secretary, Cantonment Board,” for “Cantonment Authority.” The Committee consider that this section should not apply to cattle driven or meat carried through a cantonment for sale, or consumption elsewhere, and that this exception should be made clear in the explanation.

*General Observations.*—The Committee would like to point out here that the penalty sections in this part of Chapter VIII are widely distributed and it is difficult to discover what is the penalty for any particular breach. They think that the penalties prescribed in sections 121, 123, 125, 131 (3), 133, 135 and 137 (3) might be combined in a single section at the end of this part of the chapter after the explanation to section 137, for the sake of simplicity. This suggestion might be considered by the draftsman.

*Section 138.*—The Committee considered that the Cantonment Board should be the authority to decide whether a street is to be closed or opened.

*Section 139.*—In the opinion of the Committee this section might well be omitted from the Code.

*Section 141.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 143.*—The Committee recommend that this section be omitted from the Code as unnecessary.

*Section 145.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 149 (1), (2) and (3).*—No change. The Committee agree that it is advisable to retain the power given to the Local Government by this section.

*Section 172.*—The Committee observe that the levy of licence fees in the Code of 1899 was found to be *ultra vires*, since it was not authorized under the Cantonments Act. A recent amendment to section 24, clause (20), of the Cantonments Act has now, however, legalized the levy of such fees, and the Committee recommend that provision be made in section 172 for the imposition of licence fees in cantonments where no tax on trades and professions has been imposed under section 15 of the Act.

The Committee are agreed that the levy of fees for licences under this section should be submitted to the Local Government for sanction under section 15 of the Cantonments Act in the same way as a professional tax.

For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 174.*—This section appears to be of doubtful legality in view of the wording of section 24 of the Cantonments Act. The legality of section 173 was examined by the Legislative Department in September 1918, when it was held that the Cantonment Authority could not properly be empowered to fix the parts of a cantonment in which trade may be carried on. In the same way it is arguable that we cannot properly delegate to the Cantonment Authority power to make bye-laws under section 174. But see the footnote to Chapter I, Cantonment Code, page 83, where the legality of section 174 is discussed. On the question of policy the Committee are of opinion that the Cantonment Authority should have a wide power to

make bye-laws, and that a number of subjects now dealt with in the Code might be relegated to bye-laws, *e.g.*, the directions as to the provision of public latrines now dealt with in section 74. It is for the draftsman to consider how this can be done. Our suggestion is to have a general section, specifying the subjects on which bye-laws can be made, at the beginning of Chapter XXIII.

*Section 179.*—It is noted that the provisions of this section have now been legalised by the recent amendment to section 24 (23), Cantonments Act, and that the power given to the Cantonment Authority is a very necessary one. As it stands, however, the section does not apply to prostitutes residing elsewhere but frequenting cantonments. It should be amended so as to cover such cases.

The Committee adjourned till Saturday, the 26th February, 1921.

## PART IX.

With the exception of General Charteris, the full Committee met on Saturday, the 26th February 1921, at Army Headquarters, Delhi, at 10-30 A.M. General Charteris was engaged on urgent business, and joined the Committee in the afternoon.

The minutes of the last meeting were read. Section 20 of the Code was further discussed with reference to a proposal of Lieutenant-Colonel Lawrenson that the Secretary, Cantonment Board, where he is a gazetted officer, should retain the power to appoint all servants of the Board, irrespective of salary, provided that, in the case of those servants whose salaries exceed Rs. 25 a month, the appointment shall be subject to the confirmation of the Cantonment Board.

After discussion, a proposal was put forward by the President that all appointments exceeding Rs. 25 should be made by the Board, but only on the report of their Secretary. This was rejected by four votes to three.

The non-official members take the view that appointments exceeding Rs. 25, per mensem, should be vested solely in the Board without any restriction.

Section 92 of the Code was again discussed, at the instance of Khan Bahadur Adamji, who represented that it is a growing practice in certain cantonments when an application is made under this section for the re-erection of, extension of, or additions to, buildings, to call upon the applicant to execute a lease for the whole site on the authority of paragraph 25, page 155, Cantonment Manual. It is contended that this provision of the Manual conflicts with section 261, Cantonment Code, under which the execution of a lease can only be demanded when a site is originally granted.

The Committee consider that no directions involving the extended application of existing law should issue in the form of orders from Army Headquarters, but that when necessary the rule should be amended as provided for in the Act.

The Committee then continued their examination of the Cantonment Code.

*Section 182.*—For “Cantonment Authority” substitute “Secretary, Cantonment Board.”

*Section 183.*—Substitute “District” for “Division.”

*Section 184.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Sections 185, 186, 187, 189, 190 and 191.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 192.*—Might remain as in the Code, but the Committee think that in emergent cases the President should be empowered to act.

*Section 193.*—Substitute “Secretary, Cantonment Board,” for “Cantonment Authority” and add a provision legalising the payment from Cantonment Funds of sums required for providing temporary shelters. The auditors, it seems, have disputed the legality of such expenditure.

*Section 199.*—It seems unnecessary to introduce the District Magistrate in this section. It is for the draftsman to consider whether the provisions of this section could not be included in section 183.

*Section 200.*—For “Cantonment Magistrate” substitute “Secretary, Cantonment Board.”

*Section 202.*—The reference here to the Local Government is unnecessary. Hospitals are maintained from Cantonment Funds and the Cantonment Authority should have the power to appoint its own Health Officer to be in charge of the hospital or dispensary. Moreover, the medical officer in charge receives an allowance from Cantonment Funds. We suggest that in place of the words “in such manner as the Local Government may direct,” the words “by the Cantonment Authority” should be substituted. The Committee also observed that no provision exists in the Code for the grant of an allowance to a Medical or Health Officer appointed by the Cantonment Authority. It is suggested that a clause to that effect should be inserted after section 202, unless section 19 (2) of the Act is sufficient authority.

*Section 207.*—The Association propose the addition of a clause here providing that in a hospital or dispensary maintained by the Cantonment Board no professional fee or gratification shall be accepted by the Medical Officer in charge or by any of his subordinates for professional services rendered within the premises of the hospital or dispensary.

The official members entirely agree with this principle as regards poor patients, but they think that there are considerations which make it undesirable to lay down an absolute rule as regards professional fees for all classes of patients and particularly without a reference to the views of the medical authorities. They observe that the Cantonment Board already has the power to frame any rules it thinks fit with respect to hospitals maintained from Cantonment Funds.

*Section 208.*—In the opinion of the Committee this section might with advantage be considered by the medical authorities, with a view to being recast so as to obviate any danger of undue interference with respectable persons who are receiving regular medical treatment at their own private houses, or in circumstances which involve no danger to the public health. The retention of this section lays upon the Cantonment Board the clear obligation of providing satisfactory accommodation in their hospitals for all classes of persons affected.

*Section 209 (3).*—Add the following after this section :—

“which permission shall not be refused on it being shown that the person concerned is free from infectious or contagious disorder.”

*Section 211.*—Substitute “Secretary, Cantonment Board,” for “Cantonment Magistrate.”

*Section 211 (2)* might be omitted from the Code as it appears to be an executive direction.

*Section 213.*—This section should, in our opinion, be embodied in section 67 of the Code which provides for the punishment generally of all offences committed on roads and public places.

*Section 214.*—Reports have been received from the Southern Command that the penalty provided in this section is, in practice, inadequate. It has been found that a fine of Rs. 50 and eight days' imprisonment has had little deterrent effect on prostitutes. We agree that the punishment is too small for an offence of this kind as it is one which may affect the public health. We recommend that the penalty be raised to a fine of Rs. 200, or one month's imprisonment. It is observed, however, that any such enhancement of punishment would necessitate the prior amendment of section 25 (4) of the Cantonments Act.

*Section 217.*—Mr. Craik's Committee made the following proposals :—

“ The penalty provided for in this section seems unduly light. We recommend that it should be enhanced to Rs. 200 or one month's imprisonment.”

*General observations.*—The Committee are of opinion that the same enhanced penalty should be provided for expelled persons re-entering without permission, that is, for a breach of sections 215 and 216, which is punishable under section 288. This will necessitate an amendment of section 25 (4), Cantonments Act.

The official members of this Committee agree with the recommendations above.

The non-official members consider that the present penalties prescribed in the Code are sufficient. Lala Narain Das advocates the abolition of the punishment of imprisonment. Mr. Cotelingam is of opinion that, as there have been only 2 or 3 cases reported where the punishment has been proved to be inadequate, there is not sufficient ground for enhancing the punishment. Further, this offence is not as serious as that under section 214.

*Section 219 (1) and (2).*—The provisions of this section are probably unnecessary. In actual practice, if the extension of any enactment to a cantonment is required, an application is submitted by the Cantonment Board to the Local Government who, if they consider its introduction is necessary, bring it into force. Sub-section (2) might be omitted. Sub-section (3) might stand.

*Section 220.*—Inadequate protection to trees and public property is afforded by this section. In actual practice the Cantonment Committee frame their own rules for grazing and for the control of animals permitted to graze, but such rules are of doubtful legality. We suggest the insertion of a section empowering the Cantonment Authority to make bye-laws regulating the conditions under which grazing shall be permitted on land belonging to Government in a cantonment, and the control of animals permitted to graze on such land, and providing that any person contravening any such bye-laws shall be punishable with fine which may extend to fifty rupees. Mr. Cotelingam considers that Rs. 25 is sufficient as a maximum fine.

*Section 224.*—For “ Cantonment Authority ” substitute “ Secretary, Cantonment Board,” where it first occurs.

*Section 225.*—Omit the proviso.

#### CHAPTER XV.

*Section 226.*—For “ Cantonment Magistrate ” substitute “ Cantonment Board.”

*Sections 227—229.*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.”

*Section 231 (1).*—After the word “ cantonment ” add the words “ and does not reside in or near the cantonment.” For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.” Also provide that no nomination of an agent will be necessary for houses leased to the Government under section 6 of the Cantonments (House Accommodation) Act as proposed to be amended.

*Sections 234, 235 and 235.*—The Committee think that the Health Officer and Cantonment Committee should have independent powers, but in their opinion these sections might, with advantage, be shortened and simplified. It is for the draftsman to consider whether it is necessary to specify all the objects for which the right of entry, etc., can be exercised.

*Section 235 (f).*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.”

*Sections 236 and 237.*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.” We recommend that the provisions of section 237 be embodied in sections 235 and 236.



*Section 239. (1).*—Add the following to the proviso :—

“ that such entry should only be conducted in the presence of the Secretary or of an elected member of the Board.”

*Section 247.*—The Committee think that sections 78 (e) and 85 referred to in this section might be deleted. The official members do not agree to the deletion of sections 215 (3) and 216 as suggested by the Association, whose views regarding the latter have already been fully expressed and recorded.

*Sections 248 (1), 248 (2) and (3), and 248 (4).*—Mr. Craik's Committee recorded the following remarks :—

“ We think that the present procedure for appeals by dismissed servants of the Cantonment Committee is unnecessarily long and tends to impair efficient administration. A servant, who is dismissed by the Cantonment Magistrate, has a right of appeal under Schedule V to the Cantonment Committee, and if dissatisfied, he has a right to appeal to the Officer Commanding the District. This ought to be sufficient. The decision of the Officer Commanding the District should be final. We are of opinion that there should be no right to apply for review to the Governor-General in Council by a dismissed servant, whatever his pay.”

The official members endorse this view, but the non-official members press for a right to revision.

*Section 248 (2) and (3).*—The recommendations in Part I, paragraph 5, of our proceedings with reference to appeals from Officers Commanding Districts to Commands and again from Commands to superior authority might be introduced here. The following sub-section is suggested :—

“ 248 (4).—When an appeal from an order of expulsion under section 216 of this Code is made to the Officer Commanding the District, and the Officer Commanding the District was himself the authority who passed the original order of expulsion, he shall refer the appeal to the General Officer Commanding-in-Chief the Command. Should the latter officer be the authority who made the original order of expulsion, he shall refer the appeal to the Governor-General in Council.”

We suggest the substitution of the Governor-General in Council here as we think that civil residents of cantonments would prefer that the final decision should rest with the highest authority.

*Section 249.*—It was advanced by the non-official members that the new clause should provide that the appellant be given the right to appear by counsel before appellate or revisional authorities, except in the case of dismissed servants of the Board. This follows the analogy of municipal administration. The official members are of opinion that the proposal is a fair one but that there is considerable doubt as to how far it is practicable to give effect to this proposition. There is also the question of the time which the General Officers Commanding could devote to hearing appeals. An alternative, if the employment of counsel is considered essential, might be to appoint a different channel of appeal.

## CHAPTER XX.

*General Observations.*—We consider that the whole of this chapter should be so amended as to bring it into line with the new provisions regarding Standing Committees of Arbitration which we propose should be inserted in the Cantonments (House Accommodation) Act. We also think that arbitration should be provided in regard to disputes as regards the amount of compensation arising under the proviso to section 92 (1) and the proviso to section 192.

*Section 253 (2).*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board.”



## CHAPTERS XXI AND XXII.

*General Observations.*—Mr. Craik's Committee made the following remarks :—

“ These chapters deal with the procedure for the disposal of Government land, and for the registration of immoveable property situated in cantonments. In view of the proposed establishment of a Lands Branch at Army Headquarters which will deal with matters pertaining to lands and immoveable property, it is suggested that both these chapters might be suitably revised hereafter. But we are disposed to think that sections 261 and 262 should be retained ; so also section 263, subject to decision hereafter as to who is to be the final authority for passing orders on applications for building sites. It should usually be the central authority at Command Headquarters. Section 264 requires detailed consideration, especially the *explanation*. We doubt if it need be included in the Code. Section 265 is an executive instruction and might, with advantage, be omitted. Chapter XXII should be recast entirely. To attempt further detailed revision of these chapters now would probably be a waste of time and labour. Once established, the Lands Branch will be in a position to frame rules for the disposal of all lands and for the registration of immoveable property. These rules could then, if considered necessary, be re-introduced into the Code. It is, however, essential to note here that, when such rules are being framed, consideration should be given to the question of taking statutory power to compel persons owning property in cantonments to register it, and to provide the Secretary, Cantonment Board, with more effective means than he has at present for—

(a) enforcing registration ;

(b) preventing owners from selling or transferring their interest in house property or lands, after such sale or change of ownership has been vetoed by competent authority.

Acts of neglect or disobedience, giving false information, and so forth, should be made punishable.

It was agreed by this Committee that registration should be made compulsory and it was recommended that the rules for enforcing registration should correspond with those in force in the Punjab for mutations, which provide for light and suitable fines, etc.

As regards (b) it seems to the Committee questionable whether any rules could be made. In their opinion, the only practicable remedy for a breach of any matter referred to herein would be by instituting a civil suit to declare the sale or transfer null and void.

*Sections 271—274.*—For “ Cantonment Magistrate ” substitute “ Secretary, Cantonment Board. ”

*Section 277.*—It is for consideration whether a good deal of the Code could not be relegated to bye-laws made under this section, *e.g.*, parts of Chapters VI, VII (especially sections 99--106,) VIII, X and XI. For instance, the provisions of section 174 might be very conveniently put here. In the Punjab Municipal Act the matters dealt with under section 174 come under the general chapter on bye-laws.

*Sections 281—283.*—The power of delegation conferred by these sections would appear to be *ultra vires* in view of the wording of section 24 of the Cantonments Act. The point is, however, one for the draftsman. The reference to the Governor-General in Council in sections 281, 282 may be omitted, if the Local Government is to be retained. We doubt if section 282 is necessary. Section 283 might prove useful in large cantonments.

After section 283 (1) add the following :—

“ the constitution of such sub-committee shall follow the composition of the Cantonment Board in so far as it relates to the number of elected members.”

In the proviso omit the words “ in any particular case. ”

*Section 288.*—The consideration of this section was deferred till the next meeting.

*Section 290.*—Cases have been recently reported from cantonments in which considerable difficulty has been experienced under section 290 (5) as now amended, in the recovery of legal dues recoverable under the Cantonment Code. The amendment of 1918 to section 290 (5) limits the power of recovery to cases falling within sub-sections (1) to (3) of the section. The original section gave statutory power to recover all moneys claimable by the Cantonment Authority under the Code, a power which was much wider. The effect of the amendment has been to compel Cantonment Authorities to have recourse to the civil courts for the recovery of certain claims, a procedure which is both slow and expensive.

We think that either the section should be re-enacted in its original form or that the whole of section 81 of the Punjab Municipal Act should be extended to all cantonments.

*Section 291.*—We consider that provision should be made in this section for the punishment of any person using any weight or measure which does not tally with the standard weights and measures.

The Committee consider that the punishment proposed above should be limited to a fine of Rs. 10.

The Committee adjourned till Monday, the 28th February 1921.

#### PART X.

The full Committee, with the exception of General Charteris, met on Monday, the 28th February 1921, at Army Headquarters, Delhi.

*Section 288.*—This section was again discussed. It was unanimously agreed by the Committee that the punishment of imprisonment prescribed therein should be deleted, except for the following sections :—

Sections 162, 166, 175, 210, 215, 216, 218 and 277.

As regards sections 215 and 216, a reference to Part VII of these proceedings will show that the retention of these sections and the amount of punishment have been the subject of divided opinion.

*Schedule I.*—The forms require little or no alteration.

*Schedules II and III.*—No change.

*Schedule IV.*—We suggest the insertion in Part B of section 221 (3) so as to permit the arrest without warrant of persons who rescue, or attempt to rescue, animals being taken to the pound. The want of such a provision has been felt in many cantonments.

*Schedule V.*—Appeals.

21 (ii) The Committee are inclined to the view that, as the order of dismissal will be by the Cantonment Board, an appeal against such dismissal should lie to the General Officer Commanding the District, and, if the latter officer should be the President of the Board, then the appeal should lie to the General Officer Commanding-in-Chief the Command. In the case, however, of a dismissed servant whose salary is Rs. 100 or more, a further appeal should lie to the next higher military authority.

*Section 78 (e).*—For "Division" substitute "District."

*Section 82.*—An examination of the appeals in this section took the Committee back to section 82 itself. It was decided that the following addition be made to the proviso under that section :—

"The principle should be observed that where a depression or excavation is of long-standing the cost of filling it up should ordinarily devolve on Cantonment Funds."

*Section 83.*—It was proposed by Lala Narain Das that a right of appeal should lie against orders under section 83 of the Code. This proposal was negatived by four to two.

*Section 85.*—This section, as it stands, will disappear. The appeal against orders passed under this section, which is to take its place as recommended in Part VIII of their proceedings, should lie to the General Officer Commanding the District.

*Sections 92 (1) and (2), 95, 93, 97 and 215 (3).*—The non-official members were against the retention of the present authorities prescribed in Schedule V to which an appeal lies. They consider that the District Magistrate should be the authority to decide appeals under these sections.

The official members were opposed to this view.

*Section 99. (1).*—The Committee were agreed that there should be an appeal against an order under this section to the General Officer Commanding the District.

*Section 104.*—The proposal of Lala Narain Das that an appeal should lie against an order under section 104 was negatived by five to two.

*Section 181 (1).* The Committee were agreed that there should be an appeal against an order passed under this section to the General Officer Commanding the District.

*Section 216.*—As regards this section, the proposal of the official members, as already recorded, is that the District Magistrate should submit his report to the Command and that the Command should pass final orders.

Lala Narain Das proposed that, in the event of it being decided that the District Magistrate should make a judicial enquiry, his order should have effect, with an appeal to the Sessions Judge.

To this proposal, the remaining non-official members gave their assent.

The official members were opposed to it.

*Schedule VI.*—In view of the suggestions put forward in Chapters XXI and XXII, the lease forms may require alteration.

The Hon'ble Khan Bahadur Haroon Jaffer at this stage files a minute of dissent on several matters which is attached to these proceedings.

#### *Conclusion.*

The Committee then considered a few miscellaneous points advanced by the non-official members.

- (1) The first of these was the question of the early separation of certain Sadar Bazaar areas from the rest of the military areas.

The Committee would suggest to Government that, as a first step towards arriving at a decision with respect to the excision of any area in cantonments, it might, perhaps, be advisable to appoint a small committee of officials and non-officials to visit those cantonments in which separation is considered feasible from any point of view. In this connection, the views of the Local Governments concerned would have to be obtained, probably, at a later stage.

- (2) The Hon'ble Khan Bahadur Haroon Jaffer proposed that the executive staff of the Cantonment Board drawing over Rs. 50 per mensem should be liable to transfer in the same way as the clerical staff. This suggestion was approved by the rest of the Committee present. Their proceedings in Part VIII should be accordingly corrected under section 24.

- (3) It was brought to the notice of the Committee that some notices issued to house-owners under the Cantonments (House Accommodation) Act and Cantonments Act and Code are worded with unnecessary harshness and abruptness.

The Committee did not examine these notices but they think that all cantonment notice forms should be scrutinised and redrafted where necessary so as not to give occasion for offence.

- (4) The Hon'ble Khan Bahadur Haroon Jaffer urged the necessity for suggesting to Government that action on the recommendations of this Committee should be taken in hand at once.

The Committee think that some of their proposals and recommendations might be taken into consideration by Government without delay.

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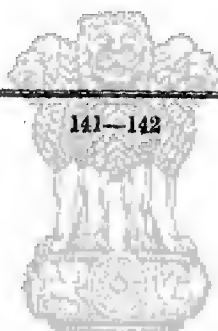
**ANNEXURE V.**

**Notes of Dissent by the Hon'ble Khan Bahadur Ebrahim Haroon Jaffer and Lala  
Narain Dass.**

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*Note of dissent by the Hon'ble Khan Bahadur Ebrahim Haroon Jaffer.*

I regret to have an occasion for this separate note. Nothing would have given me greater pleasure than to have signed a unanimous report, having on it a clear impress and a bold stamp of the spirit of the Reforms.

One of the terms of reference of this Committee is to introduce into cantonment administration "a spirit of Reform." I gratefully appreciate the Government's desire to extend to the cantonments an application in the fullest measure of the principles embodied in the Montagu-Chelmsford Scheme of Reforms, and it is because I feel that some of the recommendations made by my colleagues on the Committee do not fully represent and conform to that spirit that I feel it necessary to bring the more important of them to the notice of the Government in this separate note.

The first of these items is the separation of the Sadar Bazaars from the cantonment areas. The cantonment people are very keen on this question. The Government admits that the excision of the superfluous area inhabited purely by civil population from the cantonments is in no way opposed to military interests.

From a summary of the opinions of the local military authorities on this proposal as laid down by the Government on the table, I find that the proposal is generally considered to be feasible, but is opposed, in majority of cases, on the only ground that, if carried out, it would involve a loss of revenue to the Cantonment Fund. General Charteris has, however, assured the Committee on behalf of the Army Department that no reform will be opposed simply for financial considerations and that the Craik Committee did not consider a loss of revenue to be a sufficient or valid ground for opposing the transfer of Sadar Bazaars from the cantonments.

There is thus no reason why the Committee should not make a definite recommendation about the excision of the Sadar Bazaars where the local authorities consider it to be feasible or oppose it on the only ground of a probable loss of revenue. On going through the opinion of the local military authorities, I gather that in the case of Kamptee and Ranikhet cantonments, the separation of Sadar Bazaars is recommended and in the case of the following cantonments, the separation is considered to be possible and desirable but is opposed on the score of an apprehended loss of revenue :—

- |                 |                       |                 |
|-----------------|-----------------------|-----------------|
| 1. Cambellpore. | 9. Ambala.            | 16. Kirkee      |
| 2. Cherat.      | 10. Hyderabad (Sind). | 17. Aurangabad. |
| 3. Nowshera.    | 11. Saugor.           | 18. Poona.      |
| 4. Peshawar.    | 12. Nasirabad.        | 19. Bareilly.   |
| 5. Rawalpindi.  | 13. Nowgong.          | 20. New Delhi.  |
| 6. Ferozepore.  | 14. Mhow.             | 21. Meerut.     |
| 7. Jullundur.   | 15. Belgaum.          | 22. Wellington  |
| 8. Multan.      |                       |                 |

In face of the assurance of General Charteris, this ground does not hold good and ceases to have any force. It is therefore in the fitness of things that the Government should take immediate steps to transfer the Sadar Bazaars from these cantonments. Such a step will go a long way to satisfy the cantonment people and to inspire them with confidence in the Government.

With regard to the rest of the cantonments I would recommend the immediate appointment of a small committee of officials and non-officials to visit each cantonment, to examine its situation and environments, to study the views of the people and the local authorities on the spot, and then to submit a report to the Government as to where the separation of the Sadar Bazaar is feasible.

2. My second recommendation is the provision of an elected majority in the reformed Cantonment Committee. My colleagues increase the number of elected members to 50 per cent., but maintain an official majority by providing an official President. My contention is that the recommendation falls considerably short of what is really implied by the introduction of a spirit of reform.

The Montagu-Chelmsford Scheme of Reforms, in its final shape, contemplates the entire transfer of control from the officials to the people in Local Boards and gives a fairly large elected majority in the Provincial and the Imperial Legislative Councils, where the deliberations are likely to be of a more far-reaching consequence than those of a Cantonment Committee. The time has come when the military authorities should give up any lurking suspicion as to the capability of the elected non-official members to rise equal to the occasion when entrusted with responsible duties. The prospect of every non-official proposal being thrown out in the Committee, if not backed by the official members, will not rouse enthusiasm among the elected members.

To increase the number of elected members and at the same time to maintain an official majority is to pay a grudging homage to the spirit of Reform. I would therefore advocate an elected majority of at least 60 per cent., of the total strength of the Committee. I shall not oppose an official President for the time being and, as in the cantonments, he would be generally a senior military officer, I would suggest the desirability of having an Indian Secretary in that case.

3. The other matter in which I differ from my colleagues is the imposing of a sort of restriction on the sale of houses in cantonments, by refusing to the purchaser the right of using the house for his own residence, a right possessed by the present owner under section 11 (c) of the Cantonments (House Accommodation) Act. The Craik Committee and my colleagues admit that this will have the effect of lowering the value of houses. My colleagues suggest the remedy that the Government should compensate the present owner for this loss.

I am of opinion that the proposal will materially injure the interests of house-owners, and, if the meaning of the present Reform is the withdrawal of a right enjoyed even under the present law, it will only add to the grievances instead of redressing those that exist. Statistics show that even now very few of the owners of houses in cantonments use them for their personal residence and I do not see the ground for the fear that the new owner will make a more extensive use of this right.

The proposal will have the effect of considerably decreasing the value of houses.

As to the proposed compensation, the procedure will be so complicated and the harassment, worry and possible under-estimation will come in the train with such a stern reality that very few house-owners could be induced to seek the remedy. I doubt very much if, in the face of this restriction, there will be many persons willing to purchase houses in cantonments.

The imposition of the restriction will constitute an unwarranted interference with the proprietary rights of house-owners. It is an open secret that when the cantonments were first established, people were induced to build houses there as a profitable investment and were thus in a way invited to come over and settle there. It will be sadly inconsistent with the conditions under which the houses in cantonments sprang into existence if the Government interferes with the unfettered right of the alienation of houses hitherto enjoyed by the owners.

4. The next point where I strongly differ from my colleagues is in connection with section 216 of the Cantonment Code. Under this section, an Officer Commanding the Area has the power of expelling a person from the cantonment, with or without assigning any reason for the same. The history of this section is given in the note of the All India Cantonments Association attached to this report; it was originally intended to be applied to convicts and to other low class persons likely to carry the contagion of venereal diseases to the troops. But in recent years it has been applied to respectable persons who happened to displease the local cantonment authorities or had the temerity to assert, in however feeble a form, their rights as British citizens.

My colleagues realise that the section as it stands is open to abuse and vests the local military authorities with an arbitrary power of drastic character. They still retain the section, but suggest that the authority issuing the expulsion order should first give the person to be expelled an opportunity to show cause against such expulsion. They do not however give him the right to call evidence at this

stage. They further propose that after the expulsion, the person may claim a judicial enquiry in the court of the District Magistrate and that the District Magistrate will send the result of his enquiry to the Command for orders.

Along with my non-official colleagues, I think that those safeguards are merely conventional and will have no restraining effect in practice. The preliminary hearing to be granted to the person to be expelled by the General Officer Commanding will, in most cases, be a mere formality. The person will be merely heard, but will be given no opportunity to meet the charges brought against him. Besides, it is difficult for a military officer to divest himself of his surrounding influences or to have either the time or the inclination of giving a patient or thorough hearing to the person.

A judicial enquiry subsequent to the infliction of a punishment is an unheard of procedure. Such an enquiry, to be of any use, should precede it. What good is it to a person to be told that he is innocent after he has been punished and subjected to the dishonour of being expelled from the cantonment? Besides, even the proposed magisterial enquiry has no dignity or use about it. The magistrate has to send his report to the Command, where it is most likely to be shelved or at least subjected to official red-tapism.

The official proposal, therefore, does not meet the ends of justice.

My colleagues recognise that the only case in which the section to be used is where the attempt is made to tamper with the loyalty of troops. They do not say so in their suggestion. They do not limit the application of the section to this particular offence. They ignore the fact that the ordinary law of the country is already there to take cognisance of such offences. There is no objection to a person being expelled from the regimental lines on any plea whatsoever. But to expel a person from the Bazaars, to separate him from his kith and kin, from his *business*, without a fair trial is opposed to all notions of a civilized administration.

The All India Cantonments Association say in their note that no reform however liberal will be acceptable to the cantonment people if this section is not repealed.

I fully agree with the Association in this view. It is no use increasing the number of elected members, with this section hanging like the sword of Democles over their heads. It will not be possible for them to express their views with the independence and freedom and the future Cantonment Committees will not be a place of free and fraternal discussions.

I, therefore, strongly recommend the repeal of this section.

5. There are one or two minor points on which I shall like to offer some observations. The Craik Committee has endorsed the view of the Association that the money realised from the civil population in the form of taxation should rightly be spent on sanitary, educational and other like measures pertaining to the welfare of that population. The President of this Committee has, however, sought to modify the view by stating that the ultimate taxpayers are persons living outside the Sadar Bazaars who make purchases from the Sadar Bazaar.

I think that this can apply only to a very negligible portion of income derived from octroi, which is one of the several heads of income in a cantonment. The bulk of the civil population lives in the Sadar Bazaar, and bears directly the incidence of taxation. I may state that the people of villages surrounding a cantonment make large purchases in the Sadar Bazaar, and that, if the President's view is accepted, it will not be inequitable to spend a portion of the income in these villages as well.

6. I shall strongly urge that express provision be made in the Code against the demand of any professional fee by a medical officer in charge of a cantonment hospital or any of his subordinates for professional services performed within the precincts of the hospital.

The Medical Officer gets a decent allowance from the Cantonment Fund for the work he is required to do in a cantonment hospital and it is in no way proper or justifiable that he should demand further remuneration for the work for which he is already paid. It will not be wise to leave to the discretion of the medical officer



to determine who is entitled to free treatment in the hospital. A rich man will not like to lose his self-respect by going to a charity hospital maintained by the Cantonment Board.

It is the vesting of the discretion in the medical officer and the demand of professional fee within the cantonment hospitals that has rendered them of little or no value to the civil population of cantonments.

*Note by Lala Narain Dass, B.A., Pleader, Jullundur.*

I fully endorse the views expressed in this note by the Hon'ble Khan Bahadur Haroon Jaffer with the exception of paragraphs 2 and 3 on which I have already expressed my opinion in the course of proceedings.



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ANNEXURE -VI

Draft amendment to the Cantonments (House Accommodation) Act, 1902, the Cantonments Act, 1910, and the Cantonment Code, 1912.

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*(Not printed.)*

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